

UNIVERSITY OF CALIFORNIA

Los Angeles

THE STRUGGLE FOR TRANSIT JUSTICE

Race, Space, and Social Equity in Los Angeles

2006

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LIST OF ABBREVIATIONS

AASHO	American Association of State Highway Organizations
AT&SF	Atchison, Topeka, & Santa Fe Railroad
BPR	Bureau of Public Roads
BRU	Bus Riders Union
CBD	Central Business District
CORE	Congressionally-Ordered Re-Engineering Study
CRA	Los Angeles Community Redevelopment Agency
CRC	California Railroad Commission
DOT	United States Department of Transportation
DPM	Downtown People Mover
EA	Environmental Assessment
E/D	Elderly and Disabled
EIS	Environmental Impact Statement
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
FHA	Federal Housing Authority
FONSI	Finding of No Significant Impact

FTA	Federal Transit Administration
HOLC	Home Ownership Loan Commission
HUD	United States Department of Housing and Urban Development
ICC	Interstate Commerce Commission
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
LACTC	Los Angeles County Transportation Commission
LAMTA	Los Angeles Metropolitan Transit Authority
LARy	Los Angeles Railway
LAX	Los Angeles International Airport
L/CSC	Labor/Community Strategy Center
LPA	Locally Preferred Alternative
MCL	Metropolitan Coach Lines
MIO	Montgomery Improvement Organization
MOS	Minimum Operable Segment
MRT	Mass Rapid Transit
MSA	Metropolitan Statistical Area
MTA	Los Angeles County Metropolitan Transit Authority
MPO	Metropolitan Planning Organization
NAACP	National Association for the Advancement of Colored People
NCL	National City Lines
NEPA	National Environmental Protection Act

NHTS	National Household Travel Survey
NPTS	National Personal Transportation Survey
NYMTA	New York Metropolitan Transit Authority
PE	Pacific Electric Railway Corporation
POV	Privately-Owned Vehicle
PUC	California Public Utilities Commission
RTAC	Rapid Transit Advisory Committee
RTAG	Regional Transit Action Group (Los Angeles)
RTD	Southern California Rapid Transit District
RTDP	Regional Transit Development Program
SAFETEA-LU	Safe, Affordable, Efficient Transportation Equity Act - A Legacy for Users
SCAG	Southern California Association of Governments
SCLC	Southern Christian Leadership Conference
SCRC	Southern California Research Council
SEPTA	Southeastern Pennsylvania Transportation Authority
SMSA	Standard Metropolitan Statistical Area
SOV	Single Occupant Vehicle
SP	Southern Pacific Railroad
TDA	California Transportation Development Act
TDM	Transportation Demand Management

TEA-21	Transportation Equity Act for the 21 st Century
TSM	Tranportation System Management
UMTA	Urban Mass Transit Authority
VA	Veterans Administration (United States)
VMT	Vehicle Miles Travelled
VT	Vehicle Trips

DISSERTATION ABSTRACT

The Struggle for Transit Justice

Race, Space, and Social Equity in Los Angeles

This dissertation explores the distributional consequences of transit investments as part of the broader issue of social justice in public transit. Federal law prohibits transit providers from discriminating against minorities in the provision of transit services. Current transit policies focus primarily on improving service to less transit-dependent populations (primarily suburban commuters) in order to reduce traffic congestion and to improve air quality, but an increasing proportion of those who depend on public transit have low-incomes and are members of minority groups. Since federal law prohibits transit operators from discriminating against minorities in the provision of transit services, these policies may have a disproportionate effect on protected populations in violation of law. This study documents the changing demographics of transit riders, and the evolution of transit from a private owned, but publicly regulated enterprise, to essentially a government run social service for the poor. It then explores the conflict between current transit policies and the demands of federal civil rights law through a case

study of legal efforts to end discrimination against low-income minority transit riders in Los Angeles. It finds that legal models of racial discrimination are useful, but not entirely adequate, for evaluating social equity issues in public transit.

PART I: CIVIL RIGHTS AND PUBLIC TRANSIT

CHAPTER ONE: INTRODUCTION

There may be no more enduring symbol of the Civil Rights struggle in this country than public transit. Prior to the Civil War, of course, the underground railroad was a metaphor for a means of escaping slavery. But railroads also held a more disquieting symbolism. Long before segregated public restrooms and lunch counters entered the public consciousness, law and custom enforced the physical separation of the races on means of public conveyance. In the aftermath of that war, efforts to confer the benefits of citizenship to black Americans focused on removing these spatial barriers to the use of public transit. In the landmark 1896 U.S. Supreme Court case of *Plessy v. Ferguson*, African Americans won the right to public accommodation on streetcars and trains on an *equal*, albeit *separate*, basis with whites (though in practice it usually remained separate and *unequal*). Decades later, even as the equal, but separate doctrine of *Plessy* was being challenged as unconstitutional in public schools, a determined African American woman in Montgomery, Alabama refused to give up her seat on a bus to a white man and was arrested. The late Rosa Parks' courageous act of civil disobedience in defense of her own interpersonal space, symbolic of the larger social spaces of segregation at the time,

and the successful subsequent bus boycott led by the Reverend Dr. Martin Luther King helped to end legal segregation on public transit in the South and elsewhere. In the 1960s, Detroit Congressman John Lewis and the Freedom Riders boarded buses traveling through the South to protest continuing racial discrimination and establish the right of all citizens to travel anywhere safely, the violent reaction by local whites prompting a reluctant Kennedy administration to bar segregation on interstate bus lines, and President Johnson to push through the 1964 Civil Rights Act.¹

The early civil rights struggles dealt mainly with guaranteeing African Americans equal access to public services as enjoyed by whites. Efforts to eliminate segregated buses, schools, and restaurants and to abolish racial covenants in housing and employment fall in this category. As legal barriers to integration were removed it became obvious that more would be needed to guarantee equal opportunities. The Civil Rights movement shifted attention to the impact of public policies on people and communities of color even where there was no official policy to discriminate. Affirmative action programs were developed to improve access for women and members of minority groups in hiring and education, on the theory that social justice could be achieved by guaranteeing equal opportunity (though affirmative action has at times been accused of going beyond leveling the field to promoting economic redistribution on the basis of race).

¹Bullard & Johnson (1997).

When in 1956 the Supreme Court ordered the integration of public schools with all deliberate speed, the bus, in this case school buses, ironically became symbolic of white opposition to civil rights as conservative politicians labeled forced busing an unwarranted federal intrusion into local matters. The rallying cries of States Rights and local control used to oppose court-ordered school integration not only masked outright racist sentiments, but reflected a subtle but significant shift in the nature of racial conflict in America. In the decades since the landmark 1954 decision in *Brown v. Board of Education* signaled the end of judicial approval of segregation, and the Civil Rights Act of 1964 ended most forms of legal racial discrimination, the strong democratic principle of local self-government has often been invoked by those still desirous of maintaining the status quo with regard to racial equality. In light of these appeals to democratic principles even the Supreme Court backed down and refused to sanction inter-district school busing in the face of clear regionwide racial segregation, choosing to protect the political integrity of arbitrary spatial units created by the State of Michigan over the rights of black school children to attend schools in majority areas.² Since then (and consistent with the conservative opposition to explicitly redistributive approaches to social welfare and towards more market-oriented policies), the Supreme Court has narrowly construed civil rights law to protect the autonomy of local jurisdictions by refusing to hold them accountable for the effects of societal discrimination unless they can be shown to be directly responsible for racially discriminatory actions, while simultaneously restraining

²Milliken v. Bradley, 418 U.S. 717, 94 S.Ct. 3112, 41 L.Ed.2d 1069 (1974).

affirmative action programs that might address underlying social and racial inequality.³

Despite the Court's retrenchment in civil rights, struggles over equality on transportation systems have continued based on federal legislation barring discrimination in public programs. During the 1960s, 1970s, and 1980s, minority residents throughout the nation fought highway construction projects that threatened to cut through and disrupt poor and minority inner city neighborhoods. For instance, in 1978, residents of an established, largely minority community in Durham, North Carolina filed a complaint with the U.S. Department of Transportation (DOT) alleging that the state's plans to extend a federally-funded major expressway through their neighborhood violated federal civil rights. The parties ultimately reached an agreement on a Final Mitigation Plan in 1982 in which the state agreed to move the highway right of way to avoid the community and to redesign an interchange to preserve a local church and adjacent park.⁴

On each of these stops on the road to social justice, public transportation became not only a symbol for physical and social mobility, but simultaneously a space of resistance to discrimination. Freedom of movement, of access to the opportunities present in the urban environment, became a touchstone of achieving social equality. Despite the end of formal legal barriers to *access*, the problem of institutional constraints

³Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976).

⁴North Carolina Department of Transportation v. Crest Street Community Council, Inc., et al., 479 U.S. 6, 9-10 (1986).

to *accessibility* remains and once again public transportation is at the forefront of struggle. Today, the issue is not simply one of who can board the bus or trolley car, but as with freeways, its routing, and by extension who are served and who are burdened. For many, the automobile has become a new symbol of freedom because it provides a means of access to all the rewards society has to offer. But for those without access to private transportation, the public transit system is often the only means to exercise the benefits of full citizenship. New struggles are emerging over the social spaces embedded in public transit, albeit at a much more explicitly regional scale, with potentially more far-reaching implications, not just in terms of racial and ethnic equality but also for economic, gender, and spatial equality.

This dissertation looks at social inequality in the provision of public transit services at the level of the urban region. The unequal distribution of transit services between rich and poor, whites and people of color, suburbanites and inner city residents, are not happenstance, but are directly connected to social and legal processes that have led to uneven development and racial polarization between suburbs and central cities. It is axiomatic that not only are race and poverty highly correlated, they are both spatially concentrated in inner city areas that often lack adequate public transit. The argument presented here is not only have federal and state urban policies helped to create the current situation, but current transportation policies, rather than ameliorating the situation, are actually contributing to making the problem worse.

Background

Major urban areas in the United States underwent profound transitions in the last half of the twentieth century in concert with the restructuring of the global economy. Many businesses and industries that supported a substantial middle and working class population relocated either to so-called ex-urban areas, to other cities, or even other countries. Beginning in the 1960s, the proportion of U.S. central city residents who are white has been steadily declining while the size of the population living in outlying suburbs has grown. The exodus of middle income whites to the urban periphery has left often impoverished central city cores, largely occupied by racial and ethnic minorities. A number of theories have attempted to explain this development through consumer demand models (such as urban bid rent curves) or ecological processes (such as invasion-succession). These shifts are, however, neither accidental nor merely the outcome of neutral market mechanisms or natural processes, but are in fact the product of public policies and planning decisions that have produced social and economic inequalities in settlement patterns and in the distribution of public resources. Critical theorists have emphasized the actions of the state and the real estate market in this process of urban space formation.⁵ In both mainstream and critical analyses, though, the role of law and the legal system in creating and sustaining these disparities (or confronting them) has been largely ignored or at least decidedly downplayed.

⁵Logan and Molotch (1987); Gottdeiner (1994).

The persistence of local autonomy and the lack of any viable regional or statewide governmental control over most land use and transportation decisions, are factors in the growing racial and economic polarization of most urban areas. Given the typical fragmentation of urban regions into multiple autonomous political units with independent taxing and spending powers, these growing spatial disparities also have had an effect on the levels of public services provided by local government. As central cities face declining tax bases, they have cut services and raised taxes, accelerating the loss of middle income residents who favor lower taxes and higher service levels thought to be found in more homogeneous suburbs.⁶ The lack of adequate public services in inner city areas, including schools, libraries, hospitals and public transportation, have made it harder for remaining residents to obtain adequate housing and employment opportunities, furthering the concentration of poor, and minority residents. As a consequence, issues of racial justice and social and economic equity have become inextricably tied. The few attempts to reverse these trends by equalizing service levels within cities and across regions have foundered against the jealously guarded shoals of local political autonomy.

The uneven spatial distribution of housing, education and employment among different groups in our society is one of our most persistent social problems. Those without sufficient economic and political power are increasingly being marginalized in terms of access to the resources they need to live decent productive lives, which in turn

⁶Rusk (1995).

negatively affects their ability to participate fully in society. The gap between rich and poor, white and nonwhite, haves and have-nots, is clearly growing even amidst unparalleled economic growth and prosperity.

Urban jobs have been moving to the suburbs but many poor and minority inner city residents still lack access to suburban housing and employment opportunities. This situation has been blamed for the noticeable gap between minority and non-minority employment levels and earnings. This spatial mismatch hypothesis presupposes that due to persistent suburban housing discrimination, inner city minority workers must travel farther than their white counterparts to jobs in the suburbs and therefore are less likely to find work. This has led to various proposals for regional planning to attain a better jobs/housing balance.⁷

Researchers have pointed to the relationship between residential location and expanding suburban employment opportunities as a source of both increasing traffic congestion as well as a barrier to economic advancement among innercity residents. If such is the case, the policy response should be either to improve residential opportunities for poor and minority workers in the suburbs, and/or increase transit access from the inner city to suburbia or both. Several strategies have been suggested to deal with the spatial inequalities produced by the new urban restructuring. One is to open up the suburbs to

⁷Kain (1968); Kain (1992).

more low income and minority residents by producing more affordable housing, however, attempts to increase low income housing opportunities in outlying areas have proven especially difficult. The strong preference of suburban residents for local political autonomy, manifested by the so-called Not-In-My-Backyard, or NIMBY, movement, has typically stymied new low income housing construction in many suburban middle-class communities that could benefit poor, minority persons.⁸

A second approach argues for improving job prospects in inner city areas through local economic development. The Enterprise Zones created by the first Bush Administration and the Empowerment Districts developed during the Clinton Administration are prime examples of this policy option, though neither has been particularly successful given the constraints to private investment in urban areas. Even if new jobs, good jobs, could be created in depressed areas, potential employees would still need a means to get to them. Unless they are within walking distance, this means having an automobile or relying on public transit.

Increasingly, attention has begun to focus on a third alternative: improving accessibility between existing housing and job locations, though improved transportation. Rather than moving jobs to the inner city or urban residents to the suburbs, some public

⁸In the past several decades, there have been efforts made to remove barriers to open housing, but outside of a few states such as New Jersey, that have adopted regional fair housing requirements, the results have been marginal given judicial protection for local land use control measures that favor large lot, single family zoning and limitations on industrial and other businesses that might attract low wage workers.

transit proponents argue that more commuter-oriented bus and rail transit systems are needed to provide transit-dependent inner city residents better access to suburban employment. The issue of job accessibility has particular salience for the current debate over welfare reform, as studies have shown that many entry-level jobs are not accessible by public transit.⁹ Congressional legislation designed to move welfare recipients off the welfare rolls and into employment situations has focused attention on transportation barriers to seeking employment. The federal Job Access and Reverse Commute (JARC) program initially authorized \$150 million a year in competitive grants to provide improved transportation services, the majority to be spent in urban areas over 200,000 in population.¹⁰ At first glance, expanding transit to serve suburban locations would seem to fit with the logic of increasing access to suburban jobs for inner city residents by serving the so-called reverse commute.

While opportunities clearly exist to better link central cities and suburbs with public transit, the role of reverse commuting in metropolitan travel should not be overstated. Nearly half (42%) of all trips on public transit are work-related.¹¹ Although central cities today contain only 20 percent of all workers, they still account for 69 percent of all transit use. In contrast, suburbs have more than half of all workers but

⁹Blumenberg and Waller (2003).

¹⁰Blumenberg and Waller (2003).

¹¹Hu and Young (1993). By comparison, only about 23 percent of private automobile trips are for work.

generate only 29 percent of transit trips.¹² In part this reflects the fact that there are fewer transit services in the suburbs, where housing and job locations are more dispersed, and the higher concentration of transit dependent workers in central cities where transit systems are more available. But, even for those inner city residents seeking suburban jobs, transit is not necessarily a viable transportation solution. Rail systems tend to operate from residential locations in the suburbs to the CBD. They do not generally serve suburban employment locations, which tend to be dispersed and surrounded by free parking. Central city residents would need to take a bus or other mode of transport to a downtown transit station and then access feeder buses at the other end of the rail line in order to reach a job site.¹³ One alternative, demand-responsive services such as shuttles and vanpools that could take workers directed to suburban employment locations have proven to be exceedingly expensive to provide.¹⁴ Moreover, very long commutes are the exception, not the rule -- especially for low-income workers who must balance the time and expense of commuting against the wages from a given job. It is true that reverse commuting has expanded somewhat. Central city to suburb travel constitutes about 12

¹²Pisarski (1992).

¹³Research by Taylor and Ong (1995) indicates that where minority workers have access to automobiles the commute burdens of white and non-white workers in terms of distance traveled are not significantly different. On the other hand, much of the observed variation in travel times between white and black workers can be explained by the latter's heavier reliance on slower public transit service for the journey to work. The fact that minority workers have on average shorter commute distances and longer commute times, tends to weaken support for the spatial mismatch hypothesis but does reinforce the conclusion that minority riders rely more heavily on public transit and therefore have a more limited range of employment opportunities, for which the authors coin the phrase "automobile mismatch."

¹⁴Blumenberg and Waller (2003).

percent of all work trips, but 44 million jobs are still located in central cities, representing 38 percent of all jobs.¹⁵

Research has shown that over one third of entry level jobs are inaccessible by public transit but that the poor are less likely to own automobiles. Of the 10 percent of all households without a car, 65 percent earn less than \$25,000 a year, and 35 percent of these are African American.¹⁶ The enormous access advantage of automobiles helps to explain why in 1990 over 60 percent of the workers living in poverty households drove to work alone¹⁷ and why some have advocated greater emphasis on funding flexible van and shuttle programs¹⁸ or assisting low-wage workers into car ownership.¹⁹

Nonetheless, this approach has received impetus inasmuch as it is perceived to dovetail with other policy rationales supporting renewed federal and state interest in public transit as a solution to traffic congestion and air pollution problems. Whatever the possible policy merits in terms of pollution reduction and congestion relief, what has been missing from the analysis is that although a smaller proportion of the population are using

¹⁵Pisarski (1996).

¹⁶Blumenberg and Waller (2003).

¹⁷Pisarski (1992).

¹⁸Ong (1996); Rosenbloom (1992).

¹⁹Blumenberg & Waller (2003).

transit, those who do depend heavily on it to meet their daily transportation needs. The crux of the issue, however, is that the new policies are being carried out in ways that do not significantly improve access to job opportunities for inner city residents but in fact reduce their level of access. It is more the case that rather than improving transit service for inner city workers, current transit policy favors improving service for wealthy suburb to central city commuters.

The State of Public Transit

Increasing personal income and ongoing metropolitan decentralization has reduced the overall demand for public transit. In addition to the decline in ridership, the demographics of transit riders has been changing as the policy-driven shift in population, particularly among middle-income whites, away from central cities and toward suburbs and outlying areas, has altered the historic ridership base for transit. Transit ridership is predominately made up of the poor and those too old, young or infirm to access private automobiles. There is also a spatial dimension to the changes occurring in transit use. Public transit use is concentrated in the oldest, largest, and most densely developed American cities. Nearly 60 percent of transit passengers nationwide are served by the ten largest big city transit systems, and the remaining 40 percent by the other 5,000 plus

systems.²⁰ While the drop in the overall number of transit riders has been greatest in central cities, ridership losses have been proportionately greater among suburbs. Use of buses, streetcars, and subways is highest in central cities, while commuter railroads account for a higher percentage of all suburban trips.²¹ These shifting patterns of transit use mirror the growing economic and racial disparities in urban areas since central city residents tend to be poorer, mostly members of minority groups, and more transit dependent than suburbanites.

Demographic shifts within and between urban regions, reinforced by federal and state policies, have led to the spatial concentration of transit-dependent persons, mainly in inner city areas, while those with access to private automobiles predominate in outlying suburban and exurban areas. Furthermore, the distribution of riders across different transit modes has become increasingly polarized, both economically and racially. While most poor and transit dependent riders use buses, express buses and commuter rail and subway lines tend to serve a wealthier, less transit dependent population.

These changes have affected public transit. In 1990, the number of daily public transit riders was just under 6 million.²² The transit share of all commuter trips was only

²⁰Taylor and McCullough (1998).

²¹Pisarski (1996).

²²Pisarski (1996).

5.3 percent²³ though transit still made up a larger proportion of commute trips than of overall travel. As of 1995, transit use remained higher for commuting than other purposes as approximately 6 million persons commuted by transit, but this still constituted only 5.1 percent of all work trips. The percentage remained unchanged in 2001.

With increasing suburbanization of jobs and residences, total vehicle mileage devoted to journeys-to-work has not surprisingly grown longer over the years.²⁴ The average distance for transit work trips has also increased, but the relative use of private vehicles has increased versus public transit, which represents less than 1 percent of all trip miles.²⁵ Transit use is much higher in central cities and suburbs than in non-metropolitan areas. About 12 percent of commuters in central cities use transit,²⁶ while only 3 percent of suburban commuters do, less than half of these taking subways or commuter rail. In non-metropolitan areas, buses only manage to capture about 0.5 percent of commuters while subway and rail use is negligible.²⁷ While the average length

²³Vincent, Keyes, and Reed (1994).

²⁴Work trips accounted for an average of 5.2 miles per person per day in 1977, but increased to 8.7 miles, or around 22.5 percent of all travel mileage, by 1995. The majority of these trips were in private vehicles. Hu & Young (1999).

²⁵Hu & Young (1999), p. 21, Table 11.

²⁶They mostly take buses and streetcars (6.9%), followed by subways (4.2%) and rail (0.6%).

²⁷Pisarski (1996).

of a commute trip by public transit is about the same as for private vehicles,²⁸ travel times by public transit are almost twice as long: public transit riders spend nearly 42 minutes getting to work compared to just over 20 minutes for those using private vehicles.²⁹ Average speeds on public transit are thus much less than for private vehicles: 19.3 mph for compared to 35.4 mph.³⁰ What this means, of course, is that the dominant means of getting to and from work remains the automobile. In a study of low-wage job access by mode in Los Angeles, Ong and Blumenberg found that the number of low wage jobs that can be accessed in a 30 minute trip by transit was 77.1 percent lower than by automobile in the central city neighborhood of Pico-Union, and 97.1 percent lower than by automobile in the low-income suburb of Watts.³¹

In the case of public transit, current federal and state transit policies have not been

²⁸Data from the last three National Personal Transportation Surveys (NPTS) show that average trip length dropped slightly from 9.5 miles in 1990 to 9.1 miles in 1995, but rose again to 10.0 miles in 2001. Work trips were slightly longer in all three surveys. The average work trip in 1990 was 10.6 miles. That increase to 11.6 miles in 1995, and 12.11 miles in 2001. There are differences, however, based on mode of travel. Average commute lengths in private vehicles increased by about 3 miles from 8.9 miles in 1983 to 11.8 in 1995. They were about 12.1 miles long in 2001. During the same period, commute lengths using public transit increased only slightly from 11.8 to 12.9 miles in 1995, but fell slightly to 11.7 miles in 2001. Hu & Reuscher (2004).

²⁹Commute travel time for private vehicles rose about 2 ½ minutes, from 17.6 to 20.1 minutes, between 1983 and 1995, and to 22.5 minutes in 2001, while commute times for public transit increased a bit less, from 39.8 to 41.9 minutes from 1983 to 1995, and then jumped rather dramatically to 47.9 minutes in 2001. Hu & Reuscher (2004).

³⁰Hu & Young (1999), p. 42, Table 25 (The values differ somewhat from average miles spent traveling to and from work as they were calculated using only records where trip mileage information was present); Hu & Reuscher (2004), p.45, Table 26.

³¹Ong and Blumenberg (1999).

consistent with the demographic shifts in urban transit towards an increasingly poor, urban, transit-dependent ridership base. Regional policy makers face a challenge between the strong demand for local transit services by mostly poor, minority inner city residents and the political interests and desires of a more mobile, dispersed, suburban and largely white electorate that is increasingly resistant to redistributive policies and programs. The pressure to respond to political realities has often resulted in spending billions of dollars on new rail systems.

Rather than improving transit service for inner city workers, current federal and state transit investment policies favor expanding high speed rail and suburban-to-downtown commuter service designed to serve those euphemistically known as choice riders in the transit industry.³² The shift in federal and state transit subsidy policies toward less effective suburban rail and subway systems at the expense of central city bus systems reflects the fact that most of the tax revenues come from the suburbs and those taxpayers want to see some transit service for their money. The increasing political power concentrated in suburban and exurban areas has been effectively mobilized in support of rail development. As a result, transit policies are being driven by considerations of geopolitical equity -- government tends to allocate resources toward those areas with politically influential constituencies and away from the areas of greatest

³²Many transit operators also feel under political pressure to provide service to suburban areas, in order to maintain public support for transit, even at the cost of increasing fares or cutting back on service to more transit dependent communities. In some cases, operators are constrained by legal mandates requiring new rail construction or guaranteeing service to certain areas.

need.³³

The shift in public investment away from central city bus service has resulted in a loss of accessibility in poor and minority communities since most rail lines do not serve these areas. Fixed-route transit systems work best at connecting dense suburban residential concentrations to dense central areas. They are far less effective in connecting inner city residents to dispersed suburban employment sites, especially without time consuming transfers. And while it is true that many *new* jobs created since the 1980s have been in suburban metropolitan areas, the majority of job *opportunities* for low income workers are still located in central cities.³⁴ This is because most job openings are created by a worker vacating an existing position, and not through the creation of a new position.

While this change in funding priorities may have increased the range of options available to some suburban commuters, the transit dependent have even fewer ways to reach jobs and other services they need to improve their life situations. This incongruence between transit ridership patterns and subsidy policies reinforces patterns of racial, ethnic and economic polarization.

³³The problem of unequal opportunities is not, however, simply a question of equalizing spending over a given region. Depending on one's normative position, the uniform distribution of a certain services might very well promote equity whereas in other situations, or given other normative goals, equity might be better served by unequal distributions.

³⁴Shen (1998).

Though the logic of transit policies do little to assist the poor, neither do they offer much relief to most higher income workers. As of 1990, half of all workers and two-thirds of all urban workers were located in the suburbs, as were one half of employment locations. Of the 115 million persons who were employed in 1990, 32 million, or about 28 percent, were located in central cities, 43 million in urbanized suburbs, another 14 million in the remainder of the metropolitan area, and 25 million, or 22 percent, in non-metropolitan areas. Nearly all of the 17 million increase in metropolitan population between 1980 and 1990 occurred in the suburbs while central city populations declined slightly.³⁵

As business has followed the shift in population, over 57 percent of jobs are now located in the suburbs where 62 percent of all workers reside.³⁶ Further, most commutes are within suburbs or central cities, and not between them. As such, suburb to suburb trips now make up 44 percent of metropolitan journey-to-work trips, growing by 58 percent during each of the previous two decades.³⁷ Even among wealthier workers, only a minority of commutes are from suburbs to central cities, and even a smaller share are reverse commutes to the suburbs.

³⁵Pisarski (1996).

³⁶Blumenberg and Waller (2003), p. 4.

³⁷Pisarski (1996).

Given the declining ridership base for transit among suburban commuters, and the dispersing employment patterns, it is unlikely that major rail transit investments will either relieve traffic congestion or do much to contribute to pollution reduction. On the other hand, it will negatively impact those who cannot afford or do not have access to automobiles. Poor or mediocre public transit service in areas with high proportions of transit dependents exacerbates problems of social and economic isolation.³⁸ The dichotomy between improving rail service aimed at wealthier suburban riders and declining bus service for transit-dependent, mostly minority populations has resulted in increasing racial and economic inequality both within and between public transit systems. As a result, local public transit in the United States, especially bus service, has increasingly become a social service for the poor, elderly and disabled. Rather than striving to build new suburban transit markets, improving the quality of heavily patronized local bus services and reducing fares for short and off-peak trips would do more to connect carless workers to existing urban employment opportunities.³⁹

Such a policy proscription also makes sense from an economic standpoint. Since they serve fewer patrons who make longer commutes, on average, than existing bus lines, the effective subsidy per passenger is already much higher for rail passengers compared to bus passengers. At the same time, many transit operators are increasing fares or

³⁸Lucas (2004) especially Chapter Three, Transport and Social Exclusion.

³⁹Wachs and Taylor (1998).

reducing service on older inner city bus lines serving predominately poor and minority communities despite the fact that the poor actually require lower subsidies per rider than do wealthier patrons.⁴⁰ As many more central city residents depend on transit service for transportation to jobs and shopping, the shift in cost and/or availability of transit service has a disproportionate impact on inner city residents. Combine that with the fact that a higher percentage of poor, transit dependent inner city bus riders are minorities compared to typical suburban commuters, such service changes can and do have a disproportionate impact on racial and ethnic groups.

The allocation of transit services between rich and poor, whites and people of color, suburbanites and inner city residents, though, is not merely the product of isolated policy choices, but is directly connected to social and economic processes that have produced the current racial and economic polarization between suburbs and central cities. Planners concerned with social justice must begin confronting how political arrangements within urban regions foster inequitable distribution of public resources, whether they be schools, libraries, medical facilities or public transit, and serve to decrease opportunities for low income urban residents.

⁴⁰Hodge (1995); Pucher *et al.* (1981); Pucher (1981); Pucher (1983); Taylor *et al.* (1996); Luhrsen and Taylor (1996).

The Roots of the Struggle for Transit Justice

The struggle for social justice in public transportation lies at the crossroads of a number of at first seemingly disparate and unrelated social and planning movements. While the role of the Civil rights Movement in ending segregation on public transportation must be acknowledged, by the 1970s the traditional civil rights community was facing a crisis of direction, as many of the main issues that motivated the struggle in the early years, such as Jim Crow laws, school segregation, voting rights, housing discrimination, and the war in Vietnam, had either been resolved through political, legislative or judicial action, or in some cases simply grown too complicated to yield to the kinds of strategies that had been effective in the past. As *de jure* segregation has been eliminated and incidents of *de facto* segregation have declined or grown more subtle, there are fewer issues to stir large scale mass political protests. The battles to achieve equal access to public transit succeeded in removing explicit racial barriers to riding the bus, but the struggle over differential access to jobs, schools, shopping and other necessary services remained. Moreover, in many cases transportation issues seemed to be particularized at the regional or local level, not amenable to the sort of broad national organizing that characterized the earlier years of the movement. However, new voices, coming at these questions from quite different perspectives, were beginning to be heard that began to reshape our understanding of the question of transit justice.

One approach to dealing with the transportation problems of poor and minority urban residents came from the field of planning. Mainstream planning has not always paid sufficient attention to the interrelated problems of race and urban poverty. Those working within the tradition of equity planning on the other hand have been centrally concerned with these issues. One direction this has taken has been to try to secure better transportation options for poor, minority inner-city residents, as a means to improve economic opportunity.

Norman Krumholz, past president of the American Planning Association, has defined equity planning as an effort to provide more choices to those ... residents who have few, if any choices.⁴¹ In his tenure as the City of Cleveland's planning director, Krumholz formulated his notion of equity planning to counteract what he perceived to be the inherent unfairness and exploitative nature of the urban development process, a process that excluded the poor from the suburbs and concentrated them in declining inner city areas. A key factor in the process of isolating the poor was the lack of adequate public transportation. Related to this was the government's policy during this era of massive public investment in urban freeways that helped to empty out central cities of middle and upper income residents.

Since the early 1970s, planners influenced by the ideas of equity planning have

⁴¹Krumholz (1982), p. 163; Krumholz (1996).

fought highway construction projects and urban renewal schemes that would have further displaced or disrupted low income communities. They have tried to reorient local tax and spending policies to generate more jobs for local residents with limited access to automobiles or public transit and fought municipal tax giveaways to wealthy corporations that would have further eroded the fiscal solvency of localities to support public services, including transit. Equity planners have also worked to improve public transit service for those who depend on it for access to jobs, shopping, school, and other services. In some cases, they have opposed expensive rail transit projects serving wealthier, suburban commuters at the expense of inner city bus riders. For example, during the 1970s, city planners in Cleveland fought against costly city proposals to extend commuter rail lines and to construct a downtown people mover system to serve the business community. They argued instead for lower bus fares and expanded bus service for transit dependent persons on the grounds that new fixed rail systems would not increase accessibility but would draw resources away from suitable bus services.⁴² From the standpoint of equity planning the shift in transportation priorities serves only to decrease choices among those who already have limited transportation options. Equity planning helped to connect the problem of discrimination more directly with questions of local politics and broader economic issues. While equity planning continues to inform the profession, the issues it raises are too often submerged in considerations of technical proficiency and economic

⁴² Krumholz and Forester (1990). Krumholz and his fellow planners were successful in negotiating a deal providing for 1) a fare reduction to 25 cents for three years, 2) free non-peak fares for seniors and handicapped persons and half fares at peak hours, 3) improved neighborhood service, and 4) demand-responsive transit service for elderly and handicapped individuals.

efficiency.

In the post-Civil Rights period, other social movements emerged, many explicitly modeling themselves after the black struggle, such as women's rights, Chicano rights, gay rights, and environmentalism, all competing for public and political attention. As a result, no longer was the question of discrimination confined to eliminating the so-called incidents of slavery such as Jim Crow laws. More critically, the primary objective of creating a color-blind society, which both drove the movement, and at the same time constrained some of its potential achievements (as reflected in the Supreme Court's attitude toward affirmative action programs) proved inadequate applied to groups with different social histories and cultural experiences. This forced some to confront the need to re-conceptualize of the question of discrimination itself beyond merely eliminating barriers facing one group to achieving some measure of social equality for all oppressed and marginalized persons. In addition, although the Civil Rights movement fought many battles at the local level, such as the Montgomery Bus Boycott, the problem of discrimination was characteristically seen as the product of state and national laws and attitudes, whereas many of the New Social Movements were the product of local and regional conditions, and therefore less amenable to broad national organizing strategies.

Beyond new questions of age, gender, and sexual discrimination, even the issue of race was becoming far less white and black, as evidenced by the growing number of

immigrants from Asia, the Middle East, and Central and South America that have swelled America's ethnic populations. Even traditional minority-majority distinctions are breaking down. For example, in Los Angeles County, one of the nation's most populous at over 8 million inhabitants, Latinos now outnumber Anglos and within this decade will constitute an absolute majority of the population. An increasing number of persons are also embracing multiple racial, ethnic, and cultural identities. At the present time, diverse social groups have had little occasion to struggle together against those institutions responsible for producing social inequality and injustice. There are signs, however, that connections may be forming, and that the issue of transportation access may prove to be one such common link. An effective post-Civil Rights discourse must be open to such opportunities.

Another source of influence is the growing level of environmental awareness, which though sometimes national and even international in outlook, also raised awareness of issues at the regional or even local scale. Initially, the environmental movement had few connections with civil rights. Beginning in the late 1970s, however, a number of academics and activists began to question not only the fact that poor, minority communities tended to suffer the greatest impact from toxic chemicals produced by industry, but that governmental responses to environmental problems often tended to favor solutions that placed undue burdens on poor and minority areas. Critics also complained that many mainstream environmental organizations had few, if any minority

members and were more interested in the natural environment than in the impacts of environmental hazards on human populations, particularly minority communities.⁴³

The impetus for what has since come to be termed environmental justice came from the 1987 Church of Christ report on toxic waste hazards among minority communities.⁴⁴ In 1990, a number of academics and activists organized the Conference on Race and the Incidence of Environmental Hazards at the University of Michigan. The Michigan conference was followed by the First National People of Color Environmental Leadership Summit in Washington D.C. in October of 1991. These conferences also launched a dialogue between social and environmental activists and the U.S. Environmental Protection Agency (EPA). The EPA created an Office of Environmental Equity and an Environmental Equity Workgroup and issued a report entitled *Environmental Equity: Reducing Risks for All Communities*.⁴⁵

In a forward to the collection of essays by participants in the D.C. conference, the aforementioned Congressman and Freedom Rider John Lewis of Michigan placed the Environmental Justice movement in the larger context as an extension of the Civil Rights movement, noting that the goals of social and environmental activists had begun to

⁴³Adams (1992); Baugh (1991).

⁴⁴Commission for Racial Justice (1987).

⁴⁵United States Environmental Protection Agency (1992).

converge:

This shared vision makes for a stronger movement when diverse groups, organizations, and communities view environmental protection as a *right* of all, not a *privilege* for a few. The quest for environmental justice has helped to renew the civil rights movement in recent years.⁴⁶

In a preface to the same book, Benjamin F. Chavez, Jr., also calls for an effective, multiracial, inclusive environmental movement noting that federal and state laws are not always applied fairly across different populations due to geographic location, race, and economic status.⁴⁷

Those involved in this emerging environmental justice movement not only began to challenge planning decisions such as the location of landfills and trash burning plants in inner city neighborhoods, but were also critical of the overwhelming dearth of minority representation in the environmental movement and its lack of concern with the unequal environmental costs borne by minority communities. Environmental Justice advocates began to focus more generally on the particular *place*-based production and reproduction of spatial inequalities through challenging planning actions that unfairly impacted low

⁴⁶Bullard (1994).

⁴⁷Bullard (1994).

income and minority communities, such as relocating public hospitals from inner city areas to suburbs, or placing prisons in minority communities.

The environmental justice movement has embodied multi-ethnic grassroots struggles around issues of public health, cultural survival and sovereignty of native indigenous peoples, land rights, land use, economic justice, community empowerment, sustainability, energy, transboundary waste trade, and *transportation*.⁴⁸ The connection between all these efforts is the recognition that low income communities and people of color bear a disproportionate burden from the distributive impacts of public policies in terms of the quality and quantity of service provided. It has also begun to produce a literature specifically on the social and environmental impacts of transportation policies on low income and minority communities. The earliest work mostly documented grass roots efforts to halt or at least modify transportation plans that exposed poor, minority populations to greater environmental pollution, disrupted existing low income neighborhoods, or denied transit dependents access to adequate public transit service. For instance, Bullard and Johnson's *Just Transportation*,⁴⁹ contains essays on public opposition to the Barney Circle freeway project in southeastern Washington D.C., the South Lawrence Trafficway through environmentally sensitive and culturally significant wetlands adjacent to the Haskell Indian Nations University in Kansas, and the Riverfront

⁴⁸Bullard & Johnson (1997), p. 10, emphasis added.

⁴⁹Bullard and Johnson (1997).

and I-10 projects in the architecturally and historically significant Vieux Carré and Treme districts of New Orleans, as well as administrative and judicial challenges to transit finance policies in Macon, Georgia and Los Angeles, California. The stories of these struggles help to expand the concept of environmental justice to include larger quality of life concerns, and emphasize the importance of community organizing to oppose transportation projects that subsidize land use and development policies that damage local communities. They stress the need for more meaningful local input in the transportation planning process, and for establishing working coalitions between the environmental and civil rights communities. Importantly, they also point up the lack of attention to issues of race, class, and culture in transportation planning and detail the various administrative procedures available to address them such as the National Environmental Protection Act, the Intermodal Surface Transportation Act, and the Civil Rights Act.⁵⁰

A more recent collection of essays, *Running on Empty*,⁵¹ focus greater attention on the link between transportation and social exclusion. Taking the perspective that the lack of adequate access to transportation leads to social isolation among the poor and those receiving public assistance, it places the debate over accessibility within the wider context of welfare reform in both the United States and Britain, and argues that community-sensitive transportation planning should be central to a more holistic approach. These

⁵⁰See discussion in Chapter Two.

⁵¹ Lucas (2004).

contributions highlight the current lack of policy focus on improving basic transit services, and the impacts of the inequalities in transportation services on the lives of the poor, minorities, and women. They point out that transit access is not only unequally distributed across geographic areas and different population groups, it is increasingly inconsistent with regional land development policies in both countries. In particular, they suggest that the degree of one's transportation access, whether by public transit or private vehicle, can have dramatic consequences for employment opportunities, both in terms of job searches, commuting, and availability of childcare. It also profoundly impacts the availability of education, health care, and other basic services.

While this growing literature has highlighted inequalities in transit service, it has been largely descriptive and often polemic, lacking a nuanced theoretical formulation or causal foundations. By and large, it tends to view all service disparities as simple aspects of institutional classism and racism, with but little analysis of the underlying social, economic and political conditions that brought about those conditions. This deeper understanding of the context of transportation policy is critical to developing effective counter strategies. Though the current literature point to the need to combine the lessons of environmental and civil rights struggles in achieving transit justice, it contains little insight into *why* environmentalism has too often ignored the impact of both environmental policies and solutions on poor and minority communities (except to say that most environmental activist have been white) or how it will be possible to find

common ground. To date, most policy suggestions have lacked much in the way of specificity beyond general calls for sustainable transit-oriented development or more public transit service. This is certainly a start, but what is needed now is a more deeply grounded spatial and regional perspective that can actually bring together issues of housing, employment, transportation, and social welfare.

The Environmental Justice movement represents not only an expansion of earlier environmental movements to embrace broader economic and social concerns but also a continuation and expansion of prior civil rights struggles into a wider arena of economic and multicultural issues. Not only has it adopted many of the tactics, rhetoric and strategies of the early civil rights movement, but it has successfully exploited anti-discrimination legislation passed during the Civil Rights era to attack environmental rules and regulations that unfairly burden minority communities embracing the principle that all people and communities are entitled to equal protection in housing, employment, transportation and the environment.⁵² What potentially distinguishes this connection, and which should be particularly relevant to planners, both those interested in emancipatory grassroots social movements and those concerned with social equity, is the possibility for an explicit *spatiality*, a conscious recognition that the social production of inequality has a geographic component, which should be understood not as some distinct process of producing uneven local patterns of land development town versus country, city versus

⁵²Bullard & Johnson (1997), p. 11.

suburb but as intimately joined to other processes for producing inequalities through the social construction of race, class, gender, and sex differences. The influence of the environmental movement can be a catalyst for a holistic, systematic approach which teaches that problems such as housing, unemployment, transportation, education, etc., should not be approached in isolation from one another but that all must be addressed synthetically.

Strategies to combat social inequalities cannot and should not focus on any one basis or approach to the exclusion of the others either in their concept or tactics. In light of the increasing concentration and globalization of political power, successful efforts to combat all forms of discrimination and inequality will have to be based on broad-based strategic coalitions of multi-ethnic, multicultural, social, economic, and environmental interest groups. At the same time, they will need to be aware of the specific historical and geographical processes that give rise to particular patterns of inequality in particular places.

To achieve this in the context of transit justice, it is critical to develop a deeper understanding of the historical, geographical, and political roots of the problem. To begin with, we need to understand how federal and state policies have engendered, both purposefully and incidentally, the racial and economic polarization that characterizes contemporary urban areas. The spatial separation of population was accomplished

through legal and extra legal means to support various social and economic objectives. Whether by intention or not, it also contributed to the declining ability of the transit industry to serve the changing needs of its patrons while remaining economically viable. It is likewise critical to explore how those national policies and trends play out within, and are affected by the unique histories and geographies, of particular cities and regions.

Civil Rights and Public Transit

In several states, transit advocacy groups have gone to court to challenge transit operators over transit fare or service policies that they believe had a discriminatory impact on poor and minority communities and so directly violate the civil rights of minority riders (see Chapter Three). Despite the relative lack of success in these early cases, transit advocates continued to pursue claims through Title VI, scoring a significant victory in litigation against the Los Angeles County Metropolitan Transit Authority (MTA) where civil rights groups and bus advocates successfully challenged the regional transportation agency's proposed bus fare policies, its expenditures for subway and light rail construction, and its financial arrangements with the regional commuter rail service and suburban municipal bus operators to the neglect of its own central city bus operations. The suit alleged that the MTA was intentionally discriminating against poor, minority transit riders and perpetuating a pattern of racially discriminatory delivery of

transportation services. The MTA, they argued, had created a separate and unequal transit system in which MTA minority bus riders are denied subsidies, service, and security equal to those provided to the other modes of transportation operated and/or funded by the MTA.⁵³

In 1980, and again in 1990, voters of Los Angeles County had approved increases in the local sales tax to lower fares, improve transit service, and to upgrade the regional transportation system. Despite the availability of vast revenue sums, by 1993 severe cost overruns and construction mismanagement had left the MTA in severe financial difficulties. In response, the MTA proposed to raise bus fares and eliminate its monthly discount pass program. In 1994, a number of political action groups and several individual bus riders, brought suit in federal court to stop the MTA from raising bus fares and eliminating its unlimited-use monthly pass. The case, known as *Labor/Community Strategy Center v. Los Angeles County Metropolitan Transportation Authority*, was the first action to successfully challenge the allocation of transit funds on the basis of the discriminatory impact on minority riders.⁵⁴

⁵³Labor/Community Strategy Center, et al., v. Los Angeles Metropolitan Transportation Authority, et al., Case No. CV 94-5936 TJH, Plaintiffs' Complaint, August 31, 1994, ¶ C.7.

⁵⁴Following the settlement in the case, the attorneys for the plaintiffs agreed to make exclusively available to the UCLA Institute of Transportation Studies (ITS) the product of their extensive discovery efforts, including original written materials obtained from the MTA and other sources, containing tens of thousands of pages of public reports, internal staff memos, and other related documents concerning the MTA's planning and budgeting process. Plaintiffs' legal counsel also provided ITS with a complete copy of the court file in this case, consisting of approximately 24,000 pages which include all legal documents and expert reports produced and filed by parties. This analysis draws heavily on these materials, and the author
(continued...)

The plaintiffs were headed by a radical advocacy organization, the Labor/Community Strategy Center (L/CSC), which describes itself as an environmental, civil rights, think/act tank. The L/CSC seeks to explicitly link issues of racial and environmental justice through organizing, political action, and social protest. One of its projects, the Bus Riders Union (BRU), claims 3,000 dues paying members, and 50,000 supporters. The BRU describes its mission as fighting for affordable, efficient, and environmentally sound, mass transit service for poor and minority bus riders in Los Angeles. Devoted to addressing both human and ecological needs, the BRU prides itself on being a democratic, multi-lingual, multi-racial, gender-balanced, organization.

Joined by several other community and civil rights organization, and represented by attorneys from the NAACP Legal and Education Defense Fund (the organization responsible for the *Brown v. Board of Education* litigation) and the ACLU, the L/CSC and the BRU forced a settlement with the regional transit authority in which the MTA agreed to upgrade its bus fleet and improve service to low income communities, a commitment that could ultimately cost the agency upwards of one billion dollars over fifteen years. The terms of the settlement provided fare relief for transit dependent riders and required the MTA to take specific steps to expand its bus fleet to reduce overcrowding. In addition, the MTA agreed to enhance security, provide new bus

⁵⁴(...continued)
would like to thank the attorneys at the NAACP Legal Defense Fund for their assistance.

services, as well as design and implement new routes. Even more importantly, perhaps, the agreement gave the plaintiffs a direct role in monitoring the MTA's progress in implementing the settlement. Subsequent to the agreement, the Supreme Court barred any further Title VI lawsuit by private parties challenging agency actions without proof of deliberate racial motivation. While this represents a serious setback to hopes of using the courts to advance environmental justice principles, the experience provides many lessons for continuing political challenges to policies that discriminate against poor, minority communities.

In addition to the growing literature on transportation justice generally, there is also a small emerging literature surrounding the MTA lawsuit itself. Some of it examines the successful legal and organizing strategies that helped to achieve the consent decree issued in the case,⁵⁵ without necessarily focusing on why, other than poor planning, generated the conflict in the first place, or critiques the rationale for constructing a massive rail network in a region as dispersed and expansive as Southern California.⁵⁶ Other studies have attempted to explain the MTA's near-obsession with rail construction as the result of the powerful symbolic lure of the trains themselves.⁵⁷ But symbols do not operate by themselves and politicians and planners are free to choose which myths to

⁵⁵See, for example, Brown (1998a); Mann (1997); and Garcia and Rubin (2004).

⁵⁶See for example, Rubin (1996); Rubin and Moore (1996a) and Rubin and Moore (1996b).

⁵⁷See Richmond(1991); Richmond (2005).

believe in. As discussed in Chapter Two, at one time rapid transit systems were viewed as slow, dirty, inefficient, and outmoded, as well as symbols of the worst evils of monopoly capitalism. The private automobile, and its public counterpart the bus, on the other hand were seen as clean, modern, and democratic alternatives. If today, it is buses that are viewed as filthy, wasteful, and responsible for street and highway congestion, while high speed rail is touted for its clear, modern, fuel efficient technology the real question is why have decision makers chosen to ignore its earlier symbolic associations and embrace the later? Rail clearly serves some purpose, even if as many transportation planners believe it cannot adequately meet the needs of the vast number of poor and minority persons who depend for their mobility on public transit. This dissertation explores the issues of public transit planning generally, and in Los Angeles in particular, as a social, political, and economic struggle for control over urban space. In this vein, rail is seen more as a locus of conflict over meaning and power than as a necessarily appropriate or inappropriate planning solution in itself. It is politics that drive symbolism, not vice versa.

Research Questions and Methodology

This dissertation explores the question of social equity in transit planning. As noted above, there is a growing body of research on how transit investments do not serve

the needs of transit dependents. These studies find that present transit policies are designed to attract higher income automobile users to take transit even though an increasing proportion of transit users lack access to automobiles and must rely on public transit.⁵⁸ Transit has become basically a social service for the minority urban poor, elderly, disabled and other transit dependents. This was not always the case. Historically, transit received no public support and ridership more closely mirrored the ethnic and income distribution of the general population. The transition from a private enterprise to heavily subsidized governmental social service for the poor, elderly and disabled did not, however, occur in a vacuum. Researchers have attributed it variously to federal support for highway development, conspiracies by automobile manufacturers and national bus companies, and institutional factors in the decline of the transit industry.⁵⁹ Accordingly, the first part of this dissertation explores the social history of urban transit in the United States. It synthesizes existing research to present a picture of the institutional, social, and legal developments that have contributed to this shift in patronage and funding priorities.

⁵⁸Pucher (1981); Pucher (1982). Pucher has looked at the tax incidence of transit taxes and subsidies and concluded that nearly all major urban areas finance transit with regressive taxation, particularly those that rely on local sales and property taxes. By examining ridership data for different transit modes he has found that while buses are used most often by the poor they are the least subsidized on a per passenger trip basis while commuter rail service which is used mainly by the more affluent is the most heavily subsidized type of transit. Within modes, current policies tend to subsidize long-distance riders, peak period riders, pass users, and suburban commuters more than those who travel short distances, at off-peak times, pay cash and whose trips are confined to the inner city, a group who are disproportionately poor and minority. Moreover, subsidies to newer transit systems that serve more higher income riders have exceeded those to older systems where riders are generally poorer.

⁵⁹Jones (1985).

Chapter Two brings together a variety of secondary legal and historical materials on the transit industry, federal transportation and housing programs, and efforts to end segregation on buses and trains, to argue that national laws and policies have contributed to an urban spatial pattern that not only makes it difficult for transit dependents to access jobs and housing in the urban region, but made it increasingly difficult for an already marginal transit industry to serve the needs of these individuals and families.

Chapter Three discusses the history of discrimination in mass transit from the struggles to end Jim Crow practices on trains, streetcars, and buses, to the more recent legal and political challenges to the disproportionate impacts of current transit finance policies on poor and minority communities. In this context, it discusses the politics of transit subsidy programs,⁶⁰ and fare policies,⁶¹ vis-a-vis the changing social geography and demographics of transit ridership. Transportation planners and providers now face a tension between the growing demand for transit services by transit-dependent innercity residents and the political interests and desires of a largely suburban-based electorate that is increasingly resistant to what are perceived as redistributive policies and programs. There is considerable pressure in favor of creating new markets based on a now anachronistic model based on radial, fixed rail, suburb to downtown travel, despite the

⁶⁰For example, Pickrell (1983); Pickrell (1986); Pucher (1981); Pucher (1983); Pucher and Markstedt (1983); Pucher *et al.* (1983b); Wachs (1989); Taylor (1991); Taylor *et al.* (1996); Krause (1987); Gomez-Ibanez (1996); and Comptroller General of the United States (1985).

⁶¹For example, Taylor, et al. (1995).

fact that most commute travel is suburb to suburb. Drawing on existing literature and national time-series data sources such as the National Personal Transportation Survey, and data available from the Federal Transit Administration (FTA), and the American Public Transit Association (APTA) to analyze the longterm decline in transit use overall, and document the ongoing shifts in transit ridership demographics toward a largely poor, female and minority ridership, as well as the increasing racial and economic polarization between bus and rail modes, the aim of this chapter is to not only show how different groups use of space results in different travel patterns, but to also demonstrate that transit policies can result in discrimination against transit dependents on the basis of age, class and gender, as well as race.

Part II moves from the national to the regional scale to explore the particular historical geography of transit planning in Los Angeles. Los Angeles both reflected the national trends in transit and growth urban described in Part I, but at the same time departed from them in unique ways related to the region's specific urban development pattern. Chapter Four documents the early social history of transit in Los Angeles, and addresses how transit helped to create the area's characteristic low density, dispersed spatial form, which ironically led in turn to divisive struggles over transit issues between downtown-centered economic interests and outlying suburban businesses and residents attempting to define the social, economic, and political space of the Los Angeles region. It describes how these conflicts effectively foreclosed any reasonable attempts to create or

maintain an adequate public transit system in face of emerging automobile culture.

Rather, it was the car and the ubiquitous freeway system that provided at least a partial and temporary solution to the transportation problem in LA, that transit could not.

Increasing ethnic diversity, economic, social and spatial inequality has produced clusters of transit dependent populations particularly in East LA and South Central where Latino and black populations figure have figured dramatically in the fights over bus service and the current regional rail projects described in subsequent chapters. Chapter Five explores how the growing racial polarization that resulted from the region s historic development patterns led to violent social unrest, and analyzes the role ascribed to public transit as both cause of, and possible solution to, the problem. It also describes how, by the 1970s, political pressures led to formation of a tentative coalition in favor of massive investment in new rail development, sidelining efforts to improve local public bus transit that might have benefitted poor and working class bus riders.

Chapter Six draws on both primary and secondary materials to identify the constellation of economic factors which, coupled with the state and federal policy mandates identified in Part I, overcame the regional political barriers to produce a successful coalition to bring rail back to Los Angeles in the 1970s. It analyzes how these efforts responded to geo-political interests in the region but ultimately failed to respond adequately to the uneven development in the region and did little to address the needs of

poor transit dependents, particularly in East and South Central LA. Instead, it produced a decidedly uneven pattern of both positive and negative transit spaces which only added to the growing social and economic polarization.

Chapter Seven returns to the question of the social impact of transportation planning and highlights how little had changed and how once again transit was made to play the role of quick fix in the 1990s following the city's most recent urban disturbances. In the end, little was done to deal with the growing problems of inadequate transit service in the inner city, as county politicians pressed ahead with their major rail program. But, the apparent reconciliation of the center-periphery conflicts that had blocked earlier attempts to establish a regional rail system, failed to reflect either fiscal reality or the changed social and economic landscape in the county. Also, this chapter marks the transition to the case study of the MTA lawsuit in Part III, as it describes the events and situations that led to the MTA's fare restructuring proposal that prompted the lawsuit, even as the MTA's financial house of cards was starting to collapse of its own weight.

Part III further explores this series of interrelated spatial, planning, and legal themes surrounding the impact of civil rights law on regional transit planning through a detailed case study of the campaign against the Los Angeles MTA by planners,

academics, and grass roots activists.⁶² Based on a content analysis of numerous public planning and budget reports, staff memoranda, transcripts of public hearings, and related documents collected in connection with the lawsuit, Chapter Eight discusses the major issues that led to the lawsuit, including the continuing struggle between advocates for improved bus service for the transit dependent community and the rail-centered analysts and political bosses of the MTA over the future of public transit in Los Angeles.

Drawing on the numerous legal briefs and expert reports filed in the lawsuit, Chapter Nine analyzes the legal and policy arguments by the parties to the MTA litigation and discusses how each side addressed the legal question of discrimination and how those conflicting approaches reflected very different conceptions of urban space. In doing so it addresses a number of questions: How did the plaintiffs and defendants draw on these various approaches to define the issues as they saw them? What notions of social and spatial equality are implicit in the various positions espoused? How do their approaches compare and what do they contribute to the broader debate over normative goals for society?

Chapter Ten summarizes the findings and conclusions from this study and offers some thoughts on the role that the legal system played in addressing the spatial

⁶²A recent Supreme Court decision held, however, that Title VI disparate impact claims are not available to private litigants. *Alexander v. Sandoval*, 532 U.S. 275; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001). In all likelihood, cases such as these will not be brought in the future and transit advocates may have to pursue alternative approaches outside the courts.

inequalities in public transit in Los Angeles. It concludes with a call for more research on how law both structures and responds to spatial inequalities in general. In it I argue that the MTA lawsuit was unique in the way it was based on a radical spatiality that addressed not just racial inequalities, but brought together issues of race, class, and gender, in a way that raised questions of social and environmental justice as well as the need for broad based coalitions to counter the increasingly conservative neo-liberalism in government policies. While it failed to challenge some of the underlying political conditions that shape transportation planning in the region (and other planning too), it at least reflected an emerging, explicitly spatialized, policy perspective based on the extension of civil rights and environmental justice principles to the field of planning that offers at least the potential for a different, more dynamic, conception of social equity.

The changing demographics of transit, together with the shift in federal and state funding priorities, have combined to draw attention to the social consequences of transit investments. Given recent political experience and some judicial setbacks, it may be too early to say for certain whether in the coming decade, social equity considerations may guide transit policy similar to the way that air quality legislation has driven transportation planning since the 1980s, but it does represent the latest chapter in the long struggle for transit justice.

CHAPTER TWO: AMERICAN TRANSIT FROM TRANSPORTATION FOR THE MASSES TO SOCIAL SERVICE

This chapter analyzes the social history of the U.S. transit industry, from the earliest roots as a privately owned and operated industry suited to the development patterns of turn of the century cities and catering to a broad spectrum of the population, to an essentially publically owned and taxpayer financed social service increasingly ill-suited to meeting the needs of most travelers, including poor, minority, transit dependent-riders that now constitute the vast majority of its customers. Situating these changes within the broader socio-economic trends and public policy choices that helped to shape both the spatial arrangement of American cities and the U.S. transit industry over the years, I argue that federal, state, and local transportation, land use, and housing policies contributed to the current inequality in accessibility between those who depend on transit for their mobility and those who enjoy a greater range of transportation options. Those processes have also produced a political landscape which favors public investment outside the urban core where most transit dependents live.

As government has become responsible for providing public transportation services in this country, customer concerns have become secondary to larger economic forces and political agendas. federal, state and local transportation investment policies, particularly over the past thirty years, have increasingly been geared toward serving politically more powerful suburban and downtown business interests in ways that arguably discriminate against inner city minorities, women, disabled persons, and other transit dependents. Therefore this is also a story of discrimination in public transportation, beginning with antebellum and post-bellum Jim Crow practices that denied or limited the physical access of African American men and women to transportation services, and the long legal and political struggles to overcome those barriers (see Chapter Three). Even though formal segregation on buses and trains has been ended, those efforts set the stage for the current debates over transit justice in that they helped to shape current judicial doctrines regarding equality under the law.

For purposes of this analysis, the history of the transit industry in the United States can be divided into roughly four main eras. The periodization reflects a number of considerations, including: 1) technological advancements and institutional changes in the transit industry; 2) the impact of different transportation systems on urban form; and 3) the role of transit in the struggle for civil rights and social justice.

The formative period for transit, beginning in the 1830s and ending around 1880,

roughly coincides with the time of major social conflict over the issue of slavery through the Civil War to the end of Reconstruction. It was characterized by early experiments in transit technology and the formation of small private companies, serving mainly wealthy commuters, that helped to make possible the growth of the first suburban bedroom communities on the urban fringe. It also marked the beginnings of racial segregation on mass public transportation, and the largely ineffective attempts by some in Congress to end these and other left-over badges and incidents of slavery.

Between 1880 and 1930 transit experienced rapid growth and development, frequent business failures, and the consolidation of many smaller ventures into larger regional enterprises. With increasing urbanization transit systems expanded to serve a more economically and ethnically diverse ridership, but one which was also growing more socially stratified and spatially segregated. Transit ridership reached its heyday in the teens and peaked in the twenties, but due to internal and external pressures, was already well into decline by the start of the Depression years. Mass transportation became rigidly segregated in the South, but legislative and judicial indifference did little to remedy the situation.

From 1930 to the mid-1970s, the third major period of transit history was characterized not so much by dramatic changes in the industry itself as by a mode shift from transit to automobile use which enabled greater dispersal of population, making it

more and more difficult for public transit, particularly rail, to attract riders. The transit industry remained depressed, despite a brief resurgence during the war years, unable to overcome its basic structural problems, and compounded by massive local, state, and federal assistance for automobile-serving local road and highway construction, along with federal housing policies favoring suburban home ownership, and urban renewal policies supporting the spatial decentralization of urban areas, which together further eroded transit's ridership base. Many transit companies began to switch from rail operations to rubber-tired buses and trolleys in an effort to hold on to a diminishing share of the travel market as best they could. But the war years also exposed deep racial problems in society in general, and marked the beginnings of a concerted legal, social, and political struggle to put an end to segregation in transit and elsewhere.

The postwar period was also the start of the great era of freeway construction and suburban expansion, which placed even greater pressures on an already struggling transit industry. By the 1950s and 1960s, with few public subsidies and little hope of significant political or financial support from local voters, most private transit companies had failed and those remaining were usually absorbed into newly formed public transit agencies, which found a growing share of their remaining patrons to be poor and minority inner city residents. By then, most rail systems outside of major cities such as New York, Chicago and Boston had been abandoned. While the Civil Rights movement succeeded in integrating public transit services nationwide, school desegregation, urban renewal, and

racial violence all accelerated the exodus of middle income whites to the suburbs which, aided by discriminatory housing markets and exclusionary local housing and land use regulations, contributed to increasingly racially and economically polarized urban areas. By the end of the decade, public transit was rapidly becoming primarily a publically-owned social service for large numbers of poor, minority, inner city residents, and a smaller residue of suburban commuters.

The so-called environmental decade of the 1970s also, however, brought a revival of interest in public transit as a solution to the problems of traffic congestion and air pollution brought on, in the view of some, by overbuilding freeways and society's excessive reliance on private automobiles. During this fourth period, as the grand consensus on federal road building broke down, national policy began shifting toward improving public transit but with little notice or regard for the profound changes that had taken place in the industry. The new focus was much less on upgrading local bus service for its base of central city transit dependents as on rebuilding a now romanticized vision of the old suburb-to-central city rail transit systems based, for the most part, around existing rail rights-of-way left over from the earlier private streetcar era. These newer mostly federally-financed rail systems reflected what were by then largely anachronistic commute patterns for most transit users. Transit agencies not surprisingly began gearing their marketing to explicitly appeal to automobile commuters to take public transit, as a better alternative to freeway travel. With federal assistance, a number of cities built new

or expanded existing rail transit systems. Unfortunately, the financial commitment to new rail systems has, in some cases, come at the expense of declining quality bus service, especially for transit dependents. But, as noted in Chapter One, by the early 1990s, social and environmental awareness began to merge within the context of improving access for low income, urban communities of color, leading to new conflicts over civil rights and social justice in public transit.

Transit s Formative Period, 1830-1880

In the decades before the Civil War, relatively few Americans lived in urban areas, and for those who did cities tended to be small with relatively compact built up areas, rarely extending more than about two miles in any direction the distance that could be reasonably walked in about a half an hour. Many small shopkeepers, craftsmen and laborers lived close to or in their workplaces.¹ A fairly high degree of social and ethnic integration existed in these walking cities due to the fact that most employment and residential locations were crowded together into dense, congested downtown cores.² The industrial revolution increased the demand for land in the urban core for factories and businesses that needed to be close to raw materials and labor. Residential areas became

¹Chudacoff & Smith (2000), pp. 65-6.

²Mohl (1985).

more crowded and less sanitary, particularly those near factories, creating a market for transportation services that would make it possible for at least some to live further from the city center.³

Transportation and Regional Growth

Urban growth during middle of the 19th century was influenced by three factors: 1) improvements in transportation technology and business organization which made it easier to live further from central city areas, 2) growth in manufacturing and industry which competed for land in the urban core, and 3) European immigration and internal rural to urban migration.⁴ This is not to suggest that transportation improvements *caused* urban growth, but development of the railroads and street railways reinforced the pre-existing settlement patterns of Eastern walking cities as well as tying outlying areas together.⁵

Prior to the advent of the railroad, American was a largely rural nation. Cities tended to be small and usually located near waterways. The coming of the railroad

³Schaeffer & Sclar (1975), chapter 2.

⁴Chudacoff & Smith (2000), chapters 3 and 4.

⁵Monkkonen (1998), p. 162-4.

changed all that. They greatly facilitated the flow of rural farm products to urban consumers and the distribution of the growing variety of manufactured goods back to rural areas as well as to other cities. As cities increasingly came to be connected by rail, new markets for goods and services emerged. Railroads also facilitated industrial development. Freed from dependence on proximity to water for power and transportation by the steam engine and coal fuel, capitalists chose to relocate factories close to downtown rail lines supplying raw materials and distributing finished products in turn facilitating additional urban growth and the spatial restructuring of urban areas. Capital expansion during this period attracted European immigrants who began arriving in the 1840s, settling mostly in cities along the East Coast and in the Midwest, though the westward extension of eastern railroad lines eventually permitted some to reach as far as California. Excess rural populations also attracted to job opportunities in the developing cities helped to further swell urban populations in the decades leading up to the Civil War. Between 1840 and 1860 the percentage of the population that was urban rose from 10.8 percent to 19.8 percent as nearly 5½ million new residents arrived.⁶

Despite the economic importance, states did not invest directly in rail expansion projects, having previously suffered embarrassing financial reversals speculating in canals and toll road projects before the 1837 panic, an experience which served to discredit the states' role in planning and building public infrastructure. As such, the growing rail

⁶Chudacoff & Smith (2000), p. 55.

transportation industry, both railroads and later streetcars, remained in private ownership.⁷ Cities, on the other hand, competed fiercely to attract new rail lines and terminals to spur economic growth. Many would seriously overextend their financial resources, as the states earlier had, and face similar financial misfortune. As much as a boon the railroad was to commerce and industry, not everyone could share equally in its benefits.

Transit and the Growth of Cities

The growth of the railroads contributed to new spatial forms within cities, as industrialization intensified the competition for land not only for factories near railroad terminals in the urban core, but office and retail space in the newly-developing central business districts, or CBDs, as well. As business interests gradually replaced residential uses, factory workers and their families who poured into central cities to be near the growing number of industries crowded into tenement housing near the downtown, while businessmen and professionals who could afford to patronize commuter trains began moving to areas on the urban fringe, freeing up space for even more rural and foreign immigrants. The development of steam powered locomotives greatly contributed to early urban decentralization. By paying a reduced or commuted fare (usually 15 to 25 cents)

⁷Thompson (1998).

for purchasing a block of tickets, wealthier residents could take passenger trains that made stops in outlying villages which allowed them to escape from the industrial dirt and grime and increasingly crowded conditions within cities.⁸ However, given the high cost of commuting these satellite communities remained out of range for middle class families. As pressure grew to escape from the growing urban congestion, there was a growing market for transportation improvements that would allow those of more modest means to reap the benefits of suburban living.⁹

Beginning in the 1830s, small independent entrepreneurs had begun operating horse drawn omnibuses in many cities along defined routes for a fixed fare.¹⁰ Carrying from twelve to twenty passengers, these vehicles provided greater access in the downtown areas, but were limited in speed and the distance they could travel by the cost of supplying the teams and the condition of the streets.¹¹ While these became commonplace by the 1850s, service was often confined along the most lucrative routes, typically along large, flat, well-maintained boulevards connecting major activity centers, while less profitable areas were poorly served. Passengers tended to be well-to-do. As urban historian R.A. Mohl notes, at this time mass transit was not thought of as a public

⁸Chudacoff & Smith (2000), p. 88.

⁹Muller (2004).

¹⁰The first omnibus in the United States was operated by Abraham Brower along Broadway in Manhattan starting in 1827 and charging one bit (12½ cents). Chudacoff & Smith (2000), p. 86-7.

¹¹Schaeffer & Sclar (1975), chapter 3; Smerk (1992).

service.¹² Inasmuch as the slow speeds of the omnibus limited its use to mainly serving the CBD, cities in this period did not expand appreciably.¹³

Street railways began to appear as early as the 1850s and were quite common by the end of the Civil War.¹⁴ The cars were still drawn by horses but rested on fixed rails which made for a faster, smoother ride and allowed for larger cars carrying more passengers. They could access more areas of the city, even those further from the urban core or with modest grades. Rival companies competed for franchises to operate on city streets which gave them a monopoly status within their given territory. Fares were typically fixed by municipal laws or agreement at 5 cents a ride, and operators were often required to pave or otherwise maintain the roadbed. Lines typically extended about five miles or so from downtown, with new middle class residential developments springing up along these arterial routes. While they soon replaced the slower omnibuses, due to the high capital requirements to lay track, most smaller operators eventually sold out to larger enterprises that established city-wide systems. Though horse-drawn street railways permitted some expansion of residential areas (so-called horsecar suburbs) they still

¹²Mohl (1985), p.30.

¹³Schaeffer & Sclar (1975).

¹⁴The first streetcar actually began operating in New York City in 1832 pulling light weight railroad cars along Fourth Street from Harlem to lower Manhattan since steam locomotives were not permitted to operate inside city limits. Smerk (1992).

mostly served to distribute travel within urban centers.¹⁵

While statistics on the demographics of transit use during this time are not readily available, it is probable that ridership patterns mirrored changes in the social relations between men and women that accompanied increased urbanization and the shift in commercial and industrial production from home-based to the factory system. The emergence of paid labor which led to new and more clearly differentiated roles for men and women in the home, was certainly reflected in now-familiar patterns of transit use. Men, as middle-class breadwinners, would be most likely to ride transit to and from work at regular times. Women's responsibilities for childrearing and the home, no doubt resulted in their using transit, if at all, on a far less structured basis. Streetcars probably did not affect the working class significantly, though, as the fares were still too high compared to the typical day wage. And, while a number of Northern cities had desegregated their streetcar lines by the close of the Civil War,¹⁶ Jim Crow was still alive and well in the South.

¹⁵Mohl (1985), p. 32; Jones (1985), ch. 3. Operators did not mind the condition, since inflation was relatively mild during this time, and it insulated them from public pressure to lower fares.

¹⁶Wormser (2003).

Transit's Golden Age, 1880-1929

While the horsecars had a minimal impact on urban form, technological advances in the next major period led to transit having a substantial influence on the shape and social structure of cities. The need for more efficient and extensive urban transportation led to experiments with steam powered cable cars and elevated trains, but these did not prove very successful outside of a few cities. New York and San Francisco both built steam driven cable lines in the 1870s. Chicago added an extensive line in the 1880s. Major improvements in urban transportation would, however, have to await a more reliable power source.¹⁷ The development of the electric dynamo or generator led to the appearance in 1867 of the first electric motor car. Over the next two decades, urban streetcars appeared as experiments in a number of cities. The first successful electric traction system was begun in Richmond, Virginia, by Frank Sprague in 1887. Two subsequent events made long distance travel by electric trolley practical on a larger scale.¹⁸ First, the development of a system of high voltage AC current lines with substations to convert the electric power to low voltage DC current, and second, perfection of Sprague's multiple-unit control system that allowed one motorman to operate a train of cars. Privately owned electric streetcar operations soon began to spring up everywhere. In addition, Boston, Philadelphia, and Chicago all built subways or

¹⁷Smerk (1992).

¹⁸Middleton (1961).

elevated lines.

Improvements in technology led to the introduction of larger interurban cars, closer in size and design to steam locomotive cars, which could connect downtown and more distant suburban locations.¹⁹ They sported plush interiors, smoking sections for men and ladies parlor cars. The exteriors of the cars were originally fashioned of wood, but later were replaced by steel bodies, which nonetheless retained the familiar arched and clerestory windows. In summer, open cars were typically put in service. On longer distance runs dining cars were added. Passenger fares on street railways were usually flat (typically 5¢) or based on zones, while interurban rates were based on passenger mileage though many operators offered discounted or commuted fares to attract additional patrons during peak periods. Since electric interurbans were generally heavier and faster than their streetcar counterparts they tended to operate on the sides of highways or separate rights-of-way instead of within streets.²⁰

Able to make more frequent runs at lower cost to operate than the steam locomotives with which they competed for both passenger and freight business, the

¹⁹Hilton and Due (1964). The authors credit the first U.S. interurban as the Newark and Granville Street Railway which began operations in 1890 east of Columbus, Ohio. Others maintain that the first interurban began operations in 1891 between Minneapolis and St. Paul. Middleton (1961), chapter 1. A fifteen mile system known as the East Side Railway opened in 1893 between Portland and Oregon City. The same year a 20-mile system began operations connecting Sandusky, Milan and Norwalk, Ohio.

²⁰Hilton and Due (1964).

interurbans opened up markets for local farmers and made city merchandise available to local shopkeepers in the outskirts of town, serving new residential areas and reducing the need to be close to downtown. But most railroads refused to provide connections for any interurbans carrying freight, although a few did use interurbans as feeder lines.

Transit and Residential Development

Residential developers soon followed the path of the electric railroads or sometimes built in outlying areas in anticipation of future rail extensions. The lure of cheap housing, low taxes, and the further extension of these mass transit lines (often financed by the land speculators themselves), fueled the move. Improvements in housing construction that reduced costs as well as design innovations made for larger, more open, attractive housing more suited to changing expectations of family life.²¹ Suburban developers capitalized on this by marketing their houses as antidotes to the perceived ills of urban life and equated even more modest homes with the estates of the wealthy. Home builders launched "Own Your Own Home" advertising campaigns promising quiet single family homes in a semi-rural setting where social unrest and vice would not intrude on family life.

²¹Chudacoff & Smith (2000), p. 102.

The suburban appeal was enhanced by the construction and promotion of several model "garden cities" which were designed to combine all the convenience of urban living with the attraction of a rural setting. Some of these new developments catered to the wealthy while others aimed at more moderate income buyers, and many of not most were governed by racially restrictive covenants, limiting housing opportunities for the poor and minorities.²²

Many transit operators worked closely with, or themselves became land speculators, subdividing and selling residential parcels close to the expanding transit lines. Some operators even built amusement areas, known as trolley parks, at the end of their lines to encourage weekend streetcar patronage. These runs were especially profitable since the cars could run throughout the day which helped to spread the costs of operation. Most trolley parks contained features such as a lake, playground, picnic areas, dance halls and some became the forerunners of modern amusement parks, complete with miniature train rides for children. Another popular weekend destination were suburban cemeteries. Some companies even organized sightseeing excursions or sponsored organized baseball leagues.²³

Profits in the transit industry often depended on expanding service to more distant

²²Jackson (1985), p. 123-3; Chudacoff & Smith (2000), p. 104.

²³Middleton (1961), chapter 1.

developments, in some cases merely to stave off competition from other lines.

Unfortunately, many lines were built quickly and deteriorated rapidly with use. Early streetcar companies frequently grew beyond their means, and many were unable to raise fares under their local franchise agreements. The ubiquitous nickel streetcar fare was extremely popular with the riding public who, through their elected representatives, resisted attempts by operators to renegotiate their agreements to charge higher fares.²⁴

With fares fixed by custom or government regulation, increasing profits meant expanding routes and risking overcapitalization, or limiting service and cutting costs by reducing maintenance and delaying equipment replacement thus incurring the enmity of the riding public. As a result, service began to deteriorate and the growth in ridership declined as small companies failed.

There was a down side to such cross-subsidization from the fact that much of the financial gain for promoters came from selling shares in anticipation of huge speculative profits. The lure of earning a windfall from real estate speculation led many companies to expand their routes beyond existing or reasonably foreseeable market demand, a practice which encouraged overcapitalization and excessive operating costs in the hopes of realizing future property sales. When the market for housing flattened or sales failed to meet expectations, fare revenues could not generate sufficient income to satisfy investors and many properties went bust. Failing companies were frequently bought up by larger

²⁴Saltzman (1992).

syndicates but they faced public hostility toward monopolies, reinforced by often infrequent and inadequate service.²⁵

Growth and Consolidation in the Transit Industry

Between 1890 and 1902, electric rail track mileage increased threefold and the number of cars in service doubled. Over roughly the same period, the number of firms increase from 769 to 945. To supplement their income, many transit properties sold excess electricity to commercial and residential customers, in the process forming the first consolidated electric utilities. The financial panic of 1907 forced many such companies to begin diverting new investment capital to expanding electricity service, as housing sales dropped and the earning power of transit lines fell. Even those systems that provided only transit service began to experience a decline in new investment after this time.²⁶

At the beginning of this period, demand for transit service had been spatially concentrated and more evenly spread throughout the day. Peak period travel, in the mornings and afternoon, generated more revenue but was also more costly to serve due to

²⁵Jones (1985).

²⁶Jones (1985). By 1902, there were over 16,000 miles of streetcar lines in the U.S.

the increased cost of equipment, crews, and wear and tear for peak-period only service. Still, ridership supplied sufficient density and directional balance to permit profitable operations and many investors rushed to establish small transit companies initially financed primarily out of local capital. With suburban expansion, however, came increased costs but most companies were limited to charging a flat fare, which did not reflect the additional expense. Moreover, as ridership became more concentrated during daily rush hours, it was harder to recover the added costs of service at other times of the day. When many companies could not compete, they often sold out to larger syndicates.²⁷ Considered natural monopolies during this period, these more efficient city-wide systems were better able to maintain low fares, expand service into new areas, and facilitate transfers between lines. But due to their monopoly status, the public often grew suspicious of these traction trusts, as they were called, believing they earned windfall profits from customers while delivering crowded, infrequent, and inadequate service.²⁸

Throughout this time, street railways and interurbans remained privately owned and financed enterprises, though some were controlled directly by railroad companies. Since they required public franchises to operate in city streets, from their inception, operators were subject to varying amounts of local and state regulation, principally with regard to fares, passenger and freight service, and street paving parallel to trackage. But

²⁷Jones (1985).

²⁸Jones (1985).

weak governmental control and distorted markets led to dissatisfaction with the lines and demands for greater public regulation, though not public assistance or acquisition, and thus railroads and transit lines remained in private control.²⁹ In a number of states, interurbans were regulated as public utilities by state railroad commissions, mostly after the 1907 crisis, when the period of explosive growth and investment ended. State statutes also governed various aspects of service, such as setting maximum fares or requiring segregated cars.

At the height of the interurban era, there were multiple proposals to build continuous lines from New York to Chicago and from Chicago on to St. Louis, none of which came to fruition. But a number of large regional operations were created such as Charles L. Henry's 400-mile Central Indiana Union Traction Company, the 550-mile Illinois Traction System assembled by William B. McKinley, and Samuel Insoll's 800-mile Indiana Railroad. By 1917, there were a total of 18,000 miles of interurban lines and 10,000 cars in operation with nearly 15 trillion combined train and interurban passenger trips per year. For a time, the interurban was everyone's conveyance, and whether for commerce, or recreation, almost everyone rode the cars.³⁰

Electrification and other technological advancements created opportunities for

²⁹Thompson (1998).

³⁰Middleton (1961), p. 32. Middleton does not address the extent to which minorities too rode the cars.

greater profits, but also necessitated large outlays of capital for construction and maintenance of power plants, distribution systems, more trackage and railcars in order to realize those higher returns. Electric powered transit lines often supplemented their income by selling excess power to businesses and residences. During the 1920s, many such companies were either acquired by, or merged with, electric utility companies which were able to maintain or in some cases even expand some transit service.³¹ This infusion of capital served to delay, somewhat, the demise of streetcar systems. However, many of these companies soon shifted resources to expanding power generation and allowed their transit holdings to languish. The federal government eventually (by 1935) forced the power companies to divest their interests in transit as anti-competitive, a development which in turn led to accelerated abandonment of rail transit lines.³²

Prior to World War I, most transit companies could still cover their operating costs out of farebox revenues, but capital investment remained weak. Earnings, measured by farebox receipts, peaked in 1912, track mileage reached a high point in 1917, while market share (riders per capita) and productivity (riders per vehicle mile) topped out in 1922. About one third of all transit lines went bankrupt during this period. Overall ridership continued to grow for a few years more as some companies continued to extend lines to the suburbs (or were required to do so by their franchise agreements), but the

³¹Saltzman (1992). The Public Utility Holding Company Act of 1935.

³²Public Utility Holding Company Act of 1935, Title I of the Public Utility Act of 1935, ch. 687, 49 Stat. 803, August 26, 1935. Jones (1985); Saltzman (1992).

gains were mostly in the peak period and were soon offset by the loss of midday and weekend customers to the emerging automobile.³³ The war and the coming economic crisis would soon spell the slow death of the transit industry (see Figure 2.1).

Urban Rail and Urban Morphology

Turn of the century cities were still fairly compact though as cities grew in size, they also became more socially and economically differentiated. Identifiable ethnic and racial neighborhoods became more common, and the now familiar concentric ring pattern of socio-economic status began to emerge. Significant numbers of Southern blacks also began to move North beginning around 1890, and accelerating after World War I, taking up residence in newly-forming urban ghettos. While industry remained in the central city, many local-serving businesses followed the urban commuters to the newly built suburbs. Most major cities grew by annexing these enclaves, but some communities resisted annexation and formed the now familiar ring of first suburbs. Though more economically diverse than today's typical housing developments, they were still mostly all white.

The development of more affordable mass transit encouraged the development of wealthier residential suburbs beyond the reach of the local streetcars, as well as

³³Jones (1985).

connecting existing towns and villages that could only be reached by roadway or railroad lines. Until then, most of these outlying towns had just been smaller versions of their larger urban counterparts; now, connected to the central city by interurbans, they too became integral parts of the growing metropolitan fabric.³⁴ Many urban areas began to develop a star-shaped configuration, with the arms extending out along the rail lines.³⁵ As a result, electric trolley lines helped to reinforce urban development patterns initially established by steam lines in Eastern cities and directly influenced urban growth patterns of newer cities in the Midwest and West, especially Los Angeles.³⁶

With the growth and consolidation of the transit industry, the familiar public streetcar helped to fundamentally change urban form by permitting more city residents to move to outlying areas, contributing to a radical shift in urban demographics. The streetcars and interurbans extended the outskirts of urban areas far beyond the confines of the old walking cities. Cities, as Chudacoff and Smith note, became more fragmented and decentralized with immigrant and working-class neighborhoods more sharply differentiated from suburban enclaves.³⁷ But at the same time mass transit made it easier for many to live further away, the low fares and radial design of most systems made the

³⁴Jackson (1985), pp. 45-6.

³⁵Muller (2004); Monkkonen (1998), p. 178.

³⁶Middleton (1961), chapter 1.

³⁷Chudacoff & Smith (2000), p. 95.

downtown more accessible, helping to redefine it as a center of commerce and entertainment. The development of the department store which catered to ladies made it more acceptable for unescorted women to escape their homes on downtown shopping trips.³⁸ Rail development also led to creation of smaller satellite commercial centers at important transit nodes serving local, frequently ethnic, neighborhoods. The low fares of the trolley systems made them an affordable means of travel for most urban residents. Riders came from nearly all social classes, but mainly middle and upper class working persons. Those too poor to afford the nickel fares still had to walk.

In the period from the 1880s to the 1920s, mass transit played a critical role in the evolution of urban areas. Three quarters of all transit lines were located in cities that had a population of at least 100,000 at the beginning of this period and grew to over one quarter million by its end.³⁹ Transit reinforced the centripetal pull of the commercial urban core even as it encouraged centrifugal forces of urban residential and retail business expansion. The simultaneous centralization and de-centralization of urban functions established new urban forms, more polycentric and functionally differentiated. Moreover, while mass transit certainly did not cause urban economic or social segregation, it facilitated it by making it easier for wealthy and middle-class whites to express their locational preferences compared to low-income and minority urbanites, a prospect greatly

³⁸Chucacoff & Smith (2000), p. 89.

³⁹Jones (1985), p. 3.

increased by the Supreme Court's 1926 decision upholding suburban residential zoning controls designed to exclude industrial and high density residential developments from single family neighborhoods.⁴⁰ Americans grew to value the suburban lifestyle over the chaos of the urban milieu. Here again, transit did not cause suburbanization. Americans made the choice to trade distance from work for greater living space and public amenities, but the streetcar made that choice easier for many by reducing their commuting time. After the 1920s, though, the streetcar would play an ever diminishing role in the lives of most suburban residents as automobile ownership became more common. Even among urban dwellers, streetcar use would begin to wane. As the industry struggled to survive financially over the next half century, the car would play an increasingly important role in the spatial evolution of urban areas, while streetcars would have little influence on urban settlement patterns.

Competition and Decline, 1920-1928

By the first decade of the 20th century, the demographics of public transit ridership had evolved to generally mirror those of urban America, as the transit industry reached maturity. But World War I had brought a virtual halt to housing construction, one factor in the beginning of a prolonged period of decline for the rail industry (see Figure 2.1).

⁴⁰Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).

Rising rents and prices made new housing unaffordable to working families and home ownership rates in the inner cities declined.⁴¹ Though housing reformers such as Clarence Stein and Harry Wright urged government support for housing subsidies or public housing, little action was taken. With slumping demand for new homes, the transit industry, which depended on expanding service to maintain their profit margin, had to hunker down. Unfortunately, when conditions improved, the transit industry was no longer positioned to take advantage.

Following World War I, pent-up demand sparked a housing boom, helped along by new savings and loan institutions which assisted middle-income home buyers through longer term mortgages. Home ownership was widely promoted but working class home buyers soon found themselves being priced out of the suburban housing market.⁴² Urban areas began to expand substantially. But as urban areas grew the political structure of regions also changed. While some municipalities grew by annexing land at the periphery, these efforts often faced growing opposition as newly incorporated suburban cities resisted annexation, gradually blocking further central city expansion.⁴³ The growth of the now familiar ring of suburbs, able to resist political absorption to the central city and exercising increasing economic and political power in the region, would have a long term

⁴¹Chudacoff & Smith (2000), p. 233.

⁴²Marsh (1999), pp. 131-4.

⁴³Chudacoff & Smith (2000), p. 104.

negative impact on the viability of the urban core.

By and large these newer residential areas were less dense than central cities, making them less attractive for extending transit service, though many transit companies were obliged to do so under their franchise agreements or from political pressure as downtown business interests sought to remain accessible to suburban residents and discourage competing retail and commercial expansion in outlying areas. Added trackage increased the companies' debt and drove up operating costs, further weakening their already tenuous financial positions. Fewer and fewer companies could access the capital necessary to extend lines and engage in real estate development to offset their growing losses.⁴⁴

But an even greater challenge lay in the increasing popularity and affordability of automobiles which not only drew away potential customers, but produced new urban development and travel patterns that transit found difficult to serve. Despite the strain of suburban expansion and more temporally concentrated demand for service, the industry was still relatively productive.⁴⁵ This all began to change after the first quarter of the century, as the country experienced substantial growth in auto-oriented suburban and

⁴⁴Jones (1985).

⁴⁵Jones (1985).

exurban communities within metropolitan regions.⁴⁶ These changes began to effect not only the overall patterns of transit use, but the demographics of transit riders as well, as middle class automobile owners reduced their transit use, first during off-peak evening and weekends periods, and later for commute trips. To compensate for the revenue losses, many transit operators felt compelled to switch to using buses to stretch their already overextended service lines even farther to reach the new suburban commuters.⁴⁷

Between 1920 and 1929 transit ridership continued to grow, especially in larger cities, but not as fast as the rate of population.⁴⁸ As shown in Figure 2.1, overall combined transit ridership peaked in 1927 at around 17 billion, though heavy and light rail use had already been in decline for some time. Ridership growth continued in some large cities (those over 1 million in population) as the result of continuing industrial expansion, while it generally declined everywhere else. During its heyday, the transit industry was relatively productive. Service was generally spatially concentrated and revenues from off peak and weekend service helped to balance the higher costs of handling rush hour traffic. But wage increases granted during World War I led to higher operating costs and pressure to increase fares. Operators began to be squeezed financially between rising costs and lower revenues due to shifts in patronage. Public regulators

⁴⁶Muller (1995).

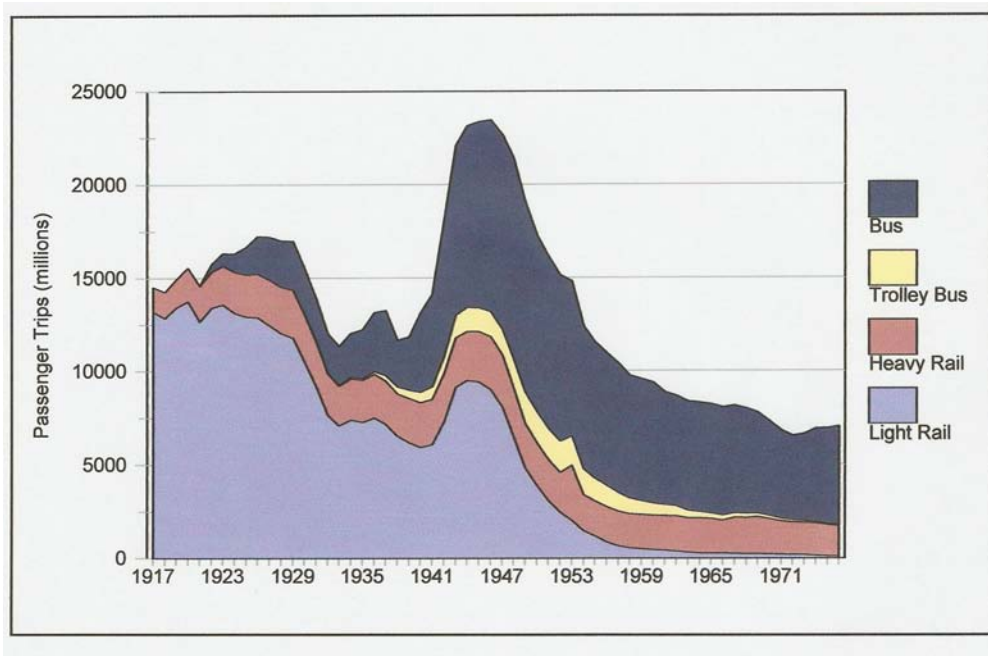
⁴⁷Jones (1985).

⁴⁸Saltzman (1992).

were reluctant to grant transit properties permission to raise fares commensurate with rising costs, a fact which limited the prospects to attract capital to expand and improve service to compete successfully with the automobile. Even if they could have, few companies felt they could charge premium fares for peak period service nor could they risk raising fares generally to cover the higher costs of peak period patronage without losing their off-peak customers. Many transit properties in smaller cities failed entirely during the 1920s and there were selective losses in larger cities.⁴⁹

⁴⁹Jones (1985).

Figure 2.1. Transit Use by Mode, 1917-1976



Source: Data from American Public Transit Association (1999).

Almost from the start, transit had faced stiff competition from the automobile. With the introduction of the Ford Model T in 1908, owning and operating a private auto quickly came within the financial reach of many more Americans. While transit companies had to finance and maintain their tracks out of pocket, automobile manufacturers had the advantage of public funding for street and roadway construction. In metropolitan areas, street improvements were either a county or municipal

responsibility, typically financed through property tax assessments. As better urban streets and highways facilitated more automobile sales, the first impact on transit was a decline in weekend and evening pleasure trips, that had helped to spread out revenues to offset higher rush hour operating costs. Privately-owned jitneys and rubber-tired buses, that could maneuver through the increased traffic on city streets and offered more flexible schedules, also began to cut into transit business. Buses could also be operated less expensively since under most union work agreements they did not require two man crews, nor did transit companies incur the expense of making periodic repairs to tracks as with streetcars. Perhaps most importantly, buses could also serve areas that could not be reached by extending existing rail lines. Transit companies employed buses to supplement existing streetcar service or expand service in areas where demand was too low to justify rail expansion. Where they could, transit companies acquired competing bus companies as a means to stave off competition from bus-only systems.⁵⁰

Automobile use continued to grow throughout the 1920s, which has been called the golden age of road building. While transit use was already leveling off or declining, local governments were increasing their efforts to accommodate automobile travel by funding major road improvement projects. By the beginning of the decade, all states provided state assistance for road building; by the end, all had adopted gasoline taxes to finance state roads. The idea of a direct linkage between the tax and spending for road

⁵⁰Jones (1985).

construction was acceptable to both automobile and gasoline producers and consumers, though there were occasional protests over diversion to other purposes.⁵¹ By contrast, there were no dedicated sources of funds for urban rail.

Rural roads connecting smaller cities and towns were considered a state or county responsibility in their condition was frequently poor. Farmers needing to market their produce and other road enthusiasts lobbied for better roads.⁵² The federal government responded (see Text Box). Though federal highway funding was limited at first, it gradual grew into the massive interstate program of the 1950s and 1960s, contributing to the problems facing the struggling transit industry. As it did, the first impact was that interurban lines that had serviced smaller areas began to disappear altogether.

In 1916, Congress moved to support automobile travel by improving county roads, ostensibly to provide for rural free mail delivery (RFD).⁵³ It passed the Federal Aid Road Act of 1916, which provided \$75 million⁵⁴ over 5 years to states for rural post

⁵¹Brown (1998).

⁵²Thompson (1998). In 1893, the federal government had created the Office of Road Inquiry in the Agriculture Department to advise states on road improvements.

⁵³Weingroff (1996); Bloom and Bennett (1998). RFD service had begun in 1912.

⁵⁴Equivalent to 1.3 billion in 2004 dollars.

road projects.⁵⁵ Congress followed this up with the 1921 Federal Highway Act which expanded funding for federal-aid highways beyond the postal roads funded in the 1916 Act. While the Act rejected proposals for a national highway network, it did require that 3/7 of the system be designated as primary roads that would be interstate in character and provided that up to 60 percent of available federal funds could be used for these routes on a 50-50 match basis. State highway departments would select the primary roads that would be approved by the Bureau of Public Roads; the remainder would constitute the secondary or intercounty highways. The legislation represented a compromise between commercial interests who wanted to maintain the focus on improving so-called farm-to-market routes, and groups representing automobile enthusiasts, such as the American Automobile Association, who wanted to see support for longer distance roads.

By 1923, the Bureau had designated the complete federal-aid system, connecting every city over 50,000 in population, most of which would be completed by the late 1930s. In practice, the federal and state governments ignored the 3/7 limitations on interstate roads so that nearly all the roads financed became part of the national system.⁵⁶ Nevertheless, federal funds could not be used on urban roadways and so the program was

⁵⁵Federal Aid Road Act of 1916, ch. 241, § 1 et seq., 39 Stat. 355, July 11, 1916. States had to establish a state highway agency to select projects and provide 50 percent of the cost in matching state funds. The federal share was limited to \$10,000 per mile and apportioned based half on state population and half on mileage of RFD and privately-contracted star mail routes. The Act was apparently grounded in the federal government's postal authority over concerns that it lacked commerce power to directly finance or construct highways generally. Schwartz (1976).

⁵⁶Brown (1998).

still a decidedly rural one.⁵⁷ In urban areas, traffic congestion was an increasing concern which threatened to choke downtown streets just as new suburban shopping centers were competing to draw away customers. While some city planners backed innovative rapid transit proposals to relieve the crowding, others saw the only solution in even greater decentralization and backed street and highway projects to increase access to the suburbs.⁵⁸

As improvements were made to vehicles and roads, travel by auto became preferable to riding the streetcar, particularly for weekend and pleasure trips, which had helped keep many urban transit operators profitable. The automobile gradually began to draw riders away from transit, particularly during the less costly to serve weekend and off-peak periods, where operating costs were lowest, resulting in a bigger share of rush hour patronage and higher operating costs. Moreover, transit operators were often constrained by their franchise agreements to provide service to little traveled lines and at lightly patronized times.

Another factor that affected the ability of transit to keep up with the demand for transportation services was the changing spatial nature of urban areas with housing and

⁵⁷Goldberg (1996). In 1923, local governments received \$1.04 billion for highways, 3.8 percent of which came from the states. Local governments spent \$1.05 billion, 44.7 percent of that for capital outlays, 44.8 percent for maintenance, and 29.8 percent for other purposes.

⁵⁸Foster (1981).

businesses increasingly being located further and further apart. Even more significantly, improved street and urban roadways made it easier for residential developers to exploit areas between the spokes of the radial transit systems. These newer, low density suburbs proved even more difficult for rail transit to serve, but with the growing use of automobiles real estate developers became less concerned about transit accessibility.⁵⁹ Muller argues that the postwar growth in automobile use transformed the hierarchical spatial patterns of the star-shaped electric transit-era cities into more homogeneous, spread out, but ultimately also more congested and less workable urban regions.⁶⁰ In any case, as grid streets spread across the urban landscape and new residential areas sprang up away from existing radial transit routes, the market for transit service began to wane, and transit exerted little further influence over urban form.⁶¹

⁵⁹Weiner (1999).

⁶⁰Muller (2004).

⁶¹Jones (1985).

Major Federal Highway Legislation, 1916-1956

Federal Aid Road Act of 1916, 39 Stat. 355, July 11, 1916

Federal Highway Act of 1921, 42 Stat. 22, November 9, 1921

Revenue Act of 1932, 42 Stat. 652, June 19, 1922

National Industrial Recovery Act of 1933, 48 Stat. 169, June 16, 1933

Hayden-Cartwright Act of 1934, 48 Stat. 993, June 18, 1935

Federal-Aid Highway Act of 1938, 52 Stat. 633, June 8, 1938

Federal-Aid Highway Act of 1944, 58 Stat. 838, December 20, 1944

Federal-Aid highway Act of 1952, 66 Stat. 158, June 25, 1952

Federal-Aid Highway Act of 1954, 68 Stat. 70, May 6, 1954

Federal-Aid Highway Act of 1956, 70 Stat. 387, June 29, 1956

Source: Congressional Budget Office (1978).

Transit s Continuing Struggles, 1929-1976

Over the next four decades, the transit industry would continue its downward slide, with the exception of the war years, when demand would briefly surge. This increased patronage was met primarily through expansion of bus service, as rail lines continued to be abandoned at an increasing pace. Ridership would begin to return to its normal condition following the war, and transit companies would largely complete the transition to bus-only service. During the post-war period, as much of its ridership base would move to the suburbs, the demographics of transit patrons would begin shifting toward increasing numbers of poor and minority users. By the start of Kennedy s New Frontier, there would be growing pressure for municipal ownership of the struggling transit systems, as part of an urban renewal program designed to revitalize declining central cities.

Depression Years, 1929-1941

The depths of the Depression not only put an end to expanding bus service into outlying areas, it also forced many transit companies to substitute buses for streetcars on

existing routes in order to reduce costs.⁶² While operating expenses were higher for buses, since fewer passengers could be carried per driver in comparison to rail, shifting to greater use of buses was one way to minimize long term losses because buses required less capital outlay and few Depression-era transit companies could raise the capital needed to upgrade or replace worn out rail cars. At first, operators viewed this shift to buses as a temporary measure until demand for transit increased as the economy improved. Unfortunately, with the public turning increasingly to the automobile, the overall demand for new transit service began to level off. Declining patronage made it even harder to extend service to new bedroom communities. On the other hand, the Depression also slowed the growth in automobile ownership which might otherwise have led to even further declines for transit. Still, most interurbans were scrapped during this period.⁶³

As urban populations expanded the land area occupied by cities not only spread out but it also became more socially and economically differentiated. Bedroom suburbs eagerly accommodated the exodus of upper and middle class white home buyers, made more mobile by the automobile and willing to live further from the increasingly poor and black central cities. The Supreme Court outlawed municipal racial restrictions in housing sales in 1917.⁶⁴ But, private racial covenants were not held to be judicially unenforceable

⁶²Jones (1985); Weiner (1999).

⁶³Thompson (1998).

⁶⁴Buchanan v. Warley, 245 U.S. 60 (1917).

until 1948.⁶⁵ Nevertheless, the practice persisted informally in many cities long afterward. The use of private racial covenants, economic zoning,⁶⁶ and other formal and informal exclusionary housing and land use practices, began a long running process that helped to confine the vast majority of poor people and people of color to central city areas, where transit was both available and still viable, while higher income whites, who had provided a financial base of support for transit, began to locate further and further into areas where transit found it increasingly difficult to be competitive. These natural, if not neutral, social and economic tendencies were reinforced by federal highway and housing policies.

New Deal Federal Transportation Policy

While the national highway system connected cities and thereby cut into the need for interurban lines, states continued to improve local highways and roads. The majority

⁶⁵Shelley v. Kramer, 334 U.S.1, 68 S.Ct. 836, 92 L.Ed. 1161 (1948).

⁶⁶Following the 1926 Supreme Court decision in *Euclid v. Ambler* upholding municipal zoning allowed suburban bedroom communities to protect their quiet residential character many cities began to adopt zoning ordinances to intentionally bar apartment houses and other noxious businesses, from single-family residential areas. So-called Euclidean zoning served to keep undesirable persons who could not afford a private home from relocating to the suburbs. Though explicit racial zoning was not permitted, some communities used their zoning powers to informally segregate residential areas by race, for example, by permitting industrial development in black and mixed neighborhoods, making them unattractive to white buyers. Silver (1997).

of funding, however, still came from local rural governments and municipalities.⁶⁷ The Depression provided new impetus for state and federal government support for road construction as it severely reduced property tax collections, a major source of revenue to build and maintain local roads. To protect highway construction jobs, states allocated more of their gasoline tax proceeds (which remained relatively robust during the Depression) to local and county governments but increasing demands on limited revenues forced localities to also request federal assistance. The American Association of State Highway Officials (AASHO), formed in 1914, lobbied for funds for urban roadways in order to relieve growing traffic congestion.⁶⁸

Many in the federal government also viewed highway construction as a means of job creation. The Hoover administration loosened some of the requirements for receiving federal highway aid to encourage states to continue state highway programs. The first federal gasoline tax, 1¢ per gallon, was passed in 1932 as a temporary revenue measure,⁶⁹ but it proved so lucrative that it was easily renewed in 1933 under the Roosevelt administration. Although gas tax receipts were general revenues, over the years there was at least a tacit assumption that the funds would go to pay for road projects.

⁶⁷Jones (1985), p. 64.

⁶⁸Weingroff (1996b).

⁶⁹Revenue Act of 1932, 42 Stat. 652, June 19, 1922.

In addition to supporting the interstate system, President Roosevelt also backed legislation to fund urban road projects. The Emergency Relief and Construction Act of 1932 created a number of temporary public works jobs by providing \$120 million in loans to states to be repaid out of future federal highway apportionments.⁷⁰ The Act also removed the restriction placed on states to complete their designated system before adding additional mileage in order to encourage states to increase the number of road projects.

The new administration also encouraged highway construction during this period first through the Works Progress Administration (WPA) and later the Public Works Administration (PWA).⁷¹ The National Industrial Recovery Act of 1933⁷² included \$400 million⁷³ for highway construction, administered by the PWA.⁷⁴ This legislation permitted the funds to be spent on *urban* roads that were considered secondary roads or extensions of the primary road system, changing the prior federal practice of funding only rural roads. The Hayden-Cartwright Act of 1934⁷⁵ ended the prohibition on using federal aid funds in urban areas and made all urban secondary roads part of the federal aid

⁷⁰Brown (1998).

⁷¹Saltzman (1992).

⁷²National Industrial Recovery Act of 1933, 48 Stat. 169, June 16, 1933.

⁷³Equivalent to \$5.8 billion in 2004 dollars.

⁷⁴National Industrial Recovery Act of 1933, ch. 90, § 204(a)(1), 48 Stat. 203.

⁷⁵Hayden-Cartwright Act of 1934, 48 Stat. 993, June 18, 1935.

highway system thereby providing routine federal transportation aid to urban areas.⁷⁶ The expansion of federal funding for urban as well as rural roads meant even more competition for fixed rail urban transit systems from the automobile.

After 1935, overall transit use started to recover somewhat (see Figure 2.1). The introduction of a reliable, efficient diesel engine made buses more economical and they began to constitute an increasing share of the transit market. General Motors (GM) and its subsidiary, Greyhound, together with several tire manufacturers and oil companies, formed a holding company, National City Lines (NCL), that began to acquire distressed transit lines throughout the country and systematically replaced their aging rail cars with modern diesel buses, despite some customer objections to the noise and smell of diesel engines.⁷⁷ Critics have ever since charged that these major automobile and tire manufacturers deliberately conspired to dismantle usable transit systems in the U.S. to crush their competition, though others argue the industry was already in decline and needed to replace its worn out rail cars.⁷⁸

⁷⁶Brown (1998).

⁷⁷In 1947, the Department of Justice prosecuted NCL for antitrust violations. GM eventually settled, agreeing to limit its transit investments. Saltzman (1992) argues that this action deprived the transit industry of much needed capital as did the 1935 Public Utility Holding Act that forced divestiture of transit properties by utility companies.

⁷⁸Scholarly research has generally not supported the conspiracy theory, but the claim remains alive and well in popular culture, as in the Disney film *Who Framed Roger Rabbit?* For a discussion of the original controversy, see Adler (1991); Taylor (2000).

In 1939, Roosevelt endorsed a master plan for a national system of highways based on a report by the Bureau of Public Roads (BPR) commissioned in the Federal-Aid Highway Act of 1938⁷⁹ to study the feasibility of a 14,000 mile system of national toll roads, three running north-south and three east-west. The report, *Toll Roads and Free Roads*, actually recommended against the toll road system on the basis that less than 200 miles would be self-supporting due to the limited demand to long distance intercity travel and proposed instead an interregional network of non-toll, limited access roadways covering 27,600 miles. In order to justify the necessary public expenditures to construct such a system, the report recommended extending the routes directly into urban areas rather than stopping at the periphery. The administration's Master Plan of Free Highway Development was intended to increase both interurban and, significantly, intra-urban travel, a decided shift from earlier policies. Through cities, routes would be grade separated and both inner and outer beltways would be provided. While Congress failed to act on the BPR proposal, it would form the basis for the later interstate highway system.⁸⁰

⁷⁹Federal-Aid Highway Act of 1938, 52 Stat. 633, June 8, 1938.

⁸⁰Weingroff (1996c); Schwartz (1976); Taylor (2000).

New Deal Federal Housing Policy

The Depression put a huge damper on new housing construction, which dropped an average of 34 percent per year between 1929 and 1933.⁸¹ As the Depression wore on the federal government also became interested in home ownership as a means of economic stimulus and to counter socialist organizing. President Herbert Hoover endorsed various programs for home building. The middle-class was encourage to see home ownership as a means to protect the exclusivity of their neighborhoods.⁸² Home ownership became connected to the idea of good citizenship and traditional values. Many planners enthusiastically joined the suburban housing movement, determined to put "Garden City" principles into operation. In 1928, the developers of Radburn, New Jersey, a community promoted around children and child rearing, began selling homes to upper-middle class professional families. Changes in banking practices, including the introduction of installment credit, allowed buyers to purchase bigger homes on larger lots.

President Roosevelt picked up on Hoover's notion that Americans should own their own homes, and extended it beyond merely encouraging home ownership to providing direct federal subsidies. As construction slowed and mortgage failures shot up, Roosevelt launched a mortgage insurance program and sponsored slum-clearance and

⁸¹Marsh (1990), p. 153.

⁸²Marsh (1990), p. 147.

new construction projects in the urban cores. The Home Owners' Loan Corporation (HOLC) refinanced private loans at 5 percent over 15 years, but it also contributed to racial segregation by refusing to underwrite loans in "dense, black or aging" areas.⁸³

In 1934, the Congress passed the National Housing Act creating the Federal Housing Authority (FHA) to insure loans by private lenders for renovation or new construction.⁸⁴ This insurance program enabled banks to offer low interest long-term loans. Since banks favored making suburban loans over those in the inner city, money began to flow away from central cities and into "low density, detached, owner occupied single family housing."⁸⁵ With the removal of what had long been one of the chief constraints to home ownership, the lack of credit, suburban home ownership again began to climb. Public housing programs developed under the Act were segregated by race, both within individual projects and by their location within white or black neighborhoods, further reinforcing racial separation.⁸⁶ The 1937 Housing Act emphasized slum clearance over neighborhood renewal; community serving neighborhood businesses suffered along with the local housing supply. The effect of all this was to encourage neighborhood

⁸³Chudacoff & Smith (2000), p. 245.

⁸⁴National Housing Act of 1934, ch. 847, 48 Stat. 1246, June 27, 1934.

⁸⁵Chudacoff & Smith (2000).

⁸⁶Kushner (1982), pp. 30-32.

decay in the urban cores and white middle-class and ethnic working class flight.⁸⁷

The War Years, 1942-1945

The Second World War temporarily brought a huge boost to transit ridership but also produced significant wear and tear on the industry's physical assets. During the war, transit use doubled, due primarily to fuel and tire rationing and the unavailability of new automobiles, as well as additional war employment and travel by servicemen. But few transit companies could afford to maintain equipment and so tracks and cars suffered significant deterioration from over use. Overall, transit use peaked in the U.S. at over 23 billion trips annually (see Figure 2.1). Much of the increase was in bus usage, whereas while rail enjoyed a slight resurgence, it never came close to its pre-war highs. In fact, at the peak, bus and rail patronage were nearly equal. The increases would be short-lived and transit use would resume its decline after the war, though bus usage would dominate compared to rail from then on. The temporary wartime blip in transit ridership obscured the industry's structural problems, by suggesting to many in the years to follow that its demise was a relatively recent phenomenon from which it might recover.

⁸⁷Chudacoff & Smith (2000), pp. 244-48.

Return to Normalcy, 1946-1960

At the conclusion of the war, pent up consumer demand for automobiles led to both a surge in auto ownership and a steep decline in transit use, particularly streetcars. The industry lost one quarter of its riders by 1950, well before the start of the era of freeway construction which is often blamed for the decline.⁸⁸ Transit patronage gradually returned to its pre-war levels but began to take on its now more characteristic pattern, catering mainly to transit dependents and peak hour commuters.⁸⁹ Even in large cities, the transit industry faced continued competitive erosion of its ridership base that had begun in the 1920s and higher costs. The introduction of the five day workweek and the standard 8 to 5 shift meant even higher weekday peak and less weekend travel. In addition, pressure for wage increases further added to transit operating costs and accelerated the transition from rail to bus, which required less initial capital investment.⁹⁰ Some companies survived by cutting unprofitable routes and converting to buses but the war's end also marked the beginning of a period of public acquisition of local transit. For example, the Chicago Transit Authority was formed in 1947, as was Boston's MTA. The New York Transit Authority was formed in 1955, and in 1956 the Bay Area Regional

⁸⁸Jones (1985).

⁸⁹Saltzman (1992).

⁹⁰Jones (1985)

Transit Commission first proposed a regional rail transit system.⁹¹

The end of the war again brought renewed interest in home construction. Following World War II, returning veterans eager for life outside increasingly congested urban cores generated a substantial building boom and produced another major wave of suburbanization. By 1950, the suburban population was growing ten times as fast as the central cities. For the next half century, the federal government aggressively supported this process through its support for low mortgage rates for single family suburban housing, highway expansion, and massive defense spending in sunbelt regions.⁹² These policies, which further eroded the prospects for urban transit, both steel rail and rubber tired, also contributed to growing racial polarization within urban areas, to the effect that what transit service remained viable increasingly served almost exclusively a low income, minority clientele.

⁹¹Jones (1985).

⁹²Chudacoff & Smith (2000), pp. 267-70.

Postwar Federal Housing and Urban Renewal Policies

It is a common refrain that the transit industry was crippled by the urban sprawl created by the massive federal freeway program, but as many historians of the period have noted, automobile production and highway construction lagged far behind the housing industry in responding to the postwar prosperity. As automobile production caught up more and more families found it easier to relocate. Expanding suburban developments pushed metropolitan boundaries further and further outward filling the spaces between areas served by existing radial bus and rail transit lines. Housing starts went from 326,000 in 1945 to over one million in 1946 and nearly 2 million by 1950.

These new developments did not, however, generate housing opportunities for minorities, rather, continued black migration to northern cities after the war led to increasingly racially segregated central cities while suburban areas employed legal and extralegal means to block integration. The real estate mortgage industry played a significant role in restricting access to the suburbs as lenders, in order to maximize their security, tended to favor lending only on single family homes in economically and racially homogeneous areas. Urban areas with black and Hispanic residents were subject to redlining which encouraged formation of segregated ghettos.⁹³ Some realtors engaged in the practice of block busting, or spreading rumors that blacks were moving

⁹³Saltzman (1992).

into an area in order to encourage white residents to put their homes up for sale before prices began to fall.

The federal government encouraged suburbanization in the post-war period, but New Deal agencies like the Federal Housing Administration (FHA), the Home Ownership Loan Commission (HOLC) and the Veterans Administration (VA) continued to support racially segregated communities. Post-World War II GI Bill loans and FHA mortgage insurance helped subsidize thousands of new home buyers. FHA practices such as endorsing the use of racially restrictive private covenants in areas covered by federal insurance helped, however, to ensure that the suburbs would be exclusively white.⁹⁴

A second wave of black migration took place after the war, but new arrivals found housing opportunities severely limited. Although the U.S. Supreme Court struck down the enforcement of private racial covenants in 1948,⁹⁵ most landlords and real estate agents refused to rent or sell to blacks in white neighborhoods. The suburbs remained almost exclusively segregated, due in part to local land use controls including overzoning for industrial, commercial and public areas, zoning residential areas for detached single family housing, large lot zoning, minimum floor space requirements, limitations on apartment construction, excessive approval fees and dedication requirements, growth

⁹⁴Chudacoff & Smith, (2000), p. 263; Kushner (1982), pp. 20-30.

⁹⁵Shelley v. Kraemer, 334 U.S. 1, 68 S.Ct. 836 (1948).

controls and public referenda.⁹⁶

Federal tax policy helped to spur new construction in suburban areas by permitting home buyers to deduct their mortgage interest payments and local property taxes from their federal income tax. It also encouraged speculation in urban real estate through accelerated depreciation and special capital gains treatment that pushed land prices up while discouraging investment in existing housing.⁹⁷

As the federal government began to strengthen the connection between home ownership and the suburbs, its policies simultaneously began to break the connections between the white middle classes and inner city-dwellers. The 1949 Housing Act permitted mostly residential areas to be leveled and replaced with high-rise commercial uses in order to raise property values and increase local tax revenues. The bill provided for some new public housing, but this was all rental. Federal housing policy through the 1960s favored high density public housing projects in existing racially segregated areas, which became plagued by crime and physical deterioration, further contributing to the economic and social decline of inner city areas.⁹⁸

⁹⁶Kushner (1982), pp. 44-52.

⁹⁷Kushner (1982), pp. 56-63.

⁹⁸Kushner (1982), pp. 32.

Postwar Federal Transportation Policies

Little progress had been made on the federal-aid highway system during the war years. There was concern at the time, however, that the end of the war might bring about another economic downturn. Congress and the President considered a postwar highway construction program as one means to sustain employment. The Federal-Aid Highway Act Amendments of 1943 directed the Public Roads Administration to draft a study concerning interregional highways and authorized the use of federal funds for right of way acquisition.⁹⁹ A committee of planners and engineers originally appointed by President Roosevelt authored a report entitled *Interregional Highways* in 1944 that proposed a 39,000 mile national highway system. Ostensibly to address growing urban traffic problems, and help to revitalize downtown business districts, the plan called for building over 9,000 highway miles in urban areas as extensions of the interstate system, far more than in the 1939 study. These urban portions of the system would be designed primarily to collect traffic entering the freeways at the urban peripheries and distribute it in the center.¹⁰⁰ Proponents noted that these sections would also serve local traffic in appealing for support from city officials. Under the proposal, local officials would be

⁹⁹Brown (1998).

¹⁰⁰National Interregional Highway Committee, *Interregional Highways*, H.R. Doc No. 379, 78th Cong., 2d Sess. (1994), hereinafter cited as *Interregional Highways*. Over 4,400 miles would be located within city boundaries and an additional 5,000 miles of circumferential and distributing routes within metropolitan areas. See Schwartz (1976), pp. 423-4. The report also indicated that the federal and state governments emphasis on rural roads had contributed to urban traffic problems, which should now be addressed. See Brown (1998), p. 473, n.423.

given primary responsibility for designing the urban portions of the system. The report urged coordinating highway construction with metropolitan planning to promote a desirable urban development.¹⁰¹

Roosevelt had urged public highway projects as a way to ease the transition to a peacetime economy.¹⁰² The Federal-Aid Highway Act of 1944¹⁰³ designated a National System of Interstate Highways of up to 40,000 miles of high speed, limited access freeways built to uniform standards based on the *Interregional Highways* report.¹⁰⁴ Many of the design concepts developed in the 1939 and 1944 highway studies found their way into the Federal-Aid Highway Act of 1944. The Act made permanent the federal highway aid commitment to urban areas that had been considered merely temporary public works programs during the Depression. It also inaugurated a shift in federal highway policy toward intracity freeway construction that would have significant consequences for what little viability remained to urban transit systems. The official routes, published in 1947, included 3,900 miles of highway extensions within urban areas. Another 2,200 miles, also to be built within urban areas, were left to be designed later after traffic studies were

¹⁰¹Interregional Highways, pp. 56, 70-71, quoted in Schwartz (1976).

¹⁰²Jones (1985).

¹⁰³Federal-Aid Highway Act of 1944, 58 Stat. 838, December 20, 1944.

¹⁰⁴Weingroff (1996c). The National System of Interstate Highways would become part of the Federal-Aid System, and eligible for funding under that program.

completed.¹⁰⁵ These urban extensions were important to gaining urban political support for the highway program. Although the Act did not provide a clear financing mechanism for this new national highway network, it did establish the basic outline of the system.¹⁰⁶ The Act did not address public transit, which was still not seen by public officials as needing or deserving public financial support, nor was it ever viewed as a potential vehicle for economic development the way that the housing and automobile industries were.

The 1944 Act represented a shift in responsibility for urban transportation development from local officials to state highway departments which had a significant impact on the future design of urban freeways. Many local transportation plans of the 1930s and 1940s had incorporated parkways, expressways, wide boulevards and improved mass transit designed to address local traffic congestion. But, state highway engineers' experience with rural highways led to designs for urban freeways that would accommodate higher interregional travel speeds and projected traffic volumes decades in the future.¹⁰⁷ Some researchers have suggested that these designs had a greater negative effect on urban development patterns than had more transit-friendly local plans been

¹⁰⁵Schwartz (1976), pp. 424-5.

¹⁰⁶The primary highways of the existing federal-aid system, were designated A and the secondary set of highways, were designated B. The urban extensions of the primary system were official recognized as part of the federal system and designated C. Future federal aid appropriations from general revenues would be split 45 percent, 30 percent and 25 percent respectively.

¹⁰⁷Jones (1985).

implemented.¹⁰⁸

The general prosperity that followed the war meant that the highway program was not needed for job creation, however, many state and local officials embraced it as a solution for growing urban traffic problems brought on by rapid suburbanization and the boom in auto use. From 1948 through 1954, Congress enacted a series of two-year renewals of the federal-aid highway program, but wider legislation to finance the interstate highway system was not immediately forthcoming. The Federal-Aid Highway Act of 1952¹⁰⁹ provided \$25 million¹¹⁰ for construction of the now-designated interstate system, with the federal government sharing costs on a 50-50 basis. The amount was small in comparison to need; by 1953, less than 5,000 of the proposed 40,000 mile system had been completed. The Federal-Aid highway Act of 1954¹¹¹ authorized \$175 million¹¹² for the interstate system and increased the federal match to 60-40. One half of the funds would be distributed to the states on the basis of population and the remainder allotted equally on the basis of roadway distance, land area and population, providing more

¹⁰⁸Wachs (1996); Taylor (2000).

¹⁰⁹Federal-Aid highway Act of 1952, 66 Stat. 158, June 25, 1952.

¹¹⁰Equivalent to \$178.2 million in 2004 dollars.

¹¹¹Federal-Aid Highway Act of 1954, 68 Stat. 70, May 6, 1954.

¹¹²Equivalent to \$1.2 billion in 2004 dollars.

incentive for urban sprawl.¹¹³

In 1955, the BPR issued a report, known colloquially as the *Yellow Book*, which designated the remaining urban portions of the interstate system in advance of the promised traffic studies, an act which greatly increased political support for the project, particularly from urban members of Congress, but also foreclosed consideration of alternative plans that would have been more sensitive to local planning concerns.¹¹⁴ The report depicted an innerbelt and an outerbelt in most major urban areas, along with plans for a system of radial intracity freeways. Many of the interstates eventually built in larger urban areas penetrated beyond the innerbelt or even went directly through the central business district. Unlike the non-urban portions, though, they were not limited access and so served local in addition to through traffic.¹¹⁵

Vehicle traffic in urban areas was rapidly becoming congested. A consensus began to emerge among state and federal officials that a major effort needed to be undertaken before congestion began to stifle economic growth. Highway safety was also becoming a major concern as automobile speeds were increasing. A committee appointed by President Eisenhower and headed by General Lucius Clay proposed spending \$23

¹¹³Weingroff (1996).

¹¹⁴Bureau of Public Roads (1955).

¹¹⁵Jones (1985).

billion on the interstate system, half of it in urban areas mainly to reduce interstate traffic from population growth.¹¹⁶ Eisenhower, however, felt that the system should largely bypass urban areas.¹¹⁷ But many in Congress believed that the so-called *urban* interstates were necessary extensions of the intercity routes that would serve to distribute traffic entering the cities from nonurban portions of the system, much of it headed to the central downtown areas, and that it would be difficult or impossible to separate this traffic from purely local traffic. Moreover, most city leaders strongly supported the extension rationale on the grounds it would help to relieve traffic congestion. The political coalition of state highway officials¹¹⁸ and cities helped to pass the legislation establishing the interstate highway program with a significant focus on urban highway construction.¹¹⁹

In 1956, at the urging of President Eisenhower, Congress passed the Federal-Aid Highway Act¹²⁰ which called for the creation of a 41,000 mile National System of

¹¹⁶A Ten-Year National Highway Program, a Report to the President, January 1955.

¹¹⁷Eisenhower's 1919 experience in a transcontinental army convoy, as well as his observation of the German Autobahn after World War II, convinced him of the need for a national highway system connecting major cities, but not urban highways.

¹¹⁸The American Association of State Highway Officials (AASHO) supported the urban routes despite their general anti-city bias, in order to obtain passage of the highway program. Schwartz (1976).

¹¹⁹By dramatically lowering travel time, highway construction can induce some drivers to take more trips. The phenomenon, known as "latent demand" can also impact transit ridership. For example, it may be easier to hop into a car and drive to an outlying shopping center, eliminating a trip that previously might have been taken by transit. While the rationale for the urban highway system may have been to reduce urban traffic congestion, the result may well have been to increase automobile travel in a way even less conducive to transit use.

¹²⁰Federal-Aid Highway Act of 1956, Pub. L. 627, Title I, 70 Stat. 374, June 29, 1956.

Interstate and Defense Highways linking most major urban centers over 50,000 in population with the federal government providing 90 percent of the cost of construction over thirteen years. Companion legislation passed by the House, the Highway Revenue Act of 1956,¹²¹ increased the federal fuel tax (from 2¢ to 3¢ per gallon), raised the tax on rubber tires (from 5¢ to 8¢ per pound), and placed these and other excise revenues in a Highway Trust Fund to be used exclusively for highway projects.¹²² Many states also adopted state gasoline taxes to be used as local match monies for federally financed road projects.¹²³

The bills represented a substantial increase in the federal commitment to highways. A total of \$25 billion¹²⁴ was authorized for FYs 1957 through 1969 to complete the interstate system.¹²⁵ The most significant feature of these measures from an urban planning standpoint was that all portions of the system, including those built within cities, would be built to minimum standards that included grade separation and limited

¹²¹Title II of P.L. 627, 70 Stat. 397, June 29, 1956.

¹²²The significance of the trust fund was that unlike general revenues, monies were earmarked for transportation projects, and could be drawn down under contract authority with further authorization by Congress. Note that public transit vehicles were exempted from the taxes, in part to reduce pressure for fare increases that would harm transit dependents.

¹²³Saltzman (1992).

¹²⁴Equivalent to \$174 billion in 2004 dollars.

¹²⁵The Act also continued funding for the ABC system, at \$700 million in 1956, increasing to \$825 million in 1957, and \$850 million in 1959. The federal government provided 50% of project costs.

access.¹²⁶ This ran counter to many local planning proposals and meant that the main function of the urban highways would be to move traffic through cities and directly into the downtown core rather than distributing traffic throughout the central city. The Eisenhower Administration, opposed to using federal dollars to fund urban highway projects,¹²⁷ attempted to scale back the system by some 1,700 miles by eliminating the urban extension routes but found Congressional opposition to the change too strong.¹²⁸

The 1956 Highway Act of not only specified that existing local highways should be incorporated into the federal system where feasible, but Section 116(b) of the Act specifically prescribed that local needs, to the extent practicable, suitable and feasible, shall be given equal consideration with the needs of interstate commerce.¹²⁹ The BPR interpreted that language to permit a broader urban program of highway construction than

¹²⁶Weingroff (1996c).

¹²⁷The cost of the Interstate System soon began to rise; only two years after passage of the 1956 Highway Act the estimate had risen from \$27 billion to \$41 billion, due largely to the high cost of urban highway construction. Brown (1998). The 1959 Highway Act raised the gas tax to 4 cents and made one-half of the truck and bus excise fees permanent. In 1961, Congress made the other half permanent, increased the authorization \$11 billion to \$37 billion and extended the completion date to 1971. Congressional Budget Office (1978).

¹²⁸The Administration did reach some agreement with the BPR on lane and interchange issues which essentially validated the intra-urban rationale. Schwartz (1976). There was something of a "Catch-22" to the agreement since the limitation on lanes to no more than 4 in cities less than 400,000 population, 6 in cities under 1 million, and 8 in larger cities could be waived if there was inadequate public transportation. *Id.*

¹²⁹Federal-Aid Highway Act of 1956, ch. 462, § 116(b), 70 Stat. 385, codified at 23 U.S.C. § 101(b) (West 2002 & Supp. 2005).

some of the original proponents in the Administration had desired.¹³⁰ The intrametropolitan rationale permitted an increase in the number of urban freeway miles over and above those needed to handle extension traffic. In 1957, the BPR approved an additional 1,450 miles of urban highways.¹³¹ In some cases the cost of the freeways could only be justified by the additional intraurban traffic that could be served.¹³² The routes selected by state highway officials lacked coordination with local planning efforts. Moreover, they often had far higher capacities than justified, and tended to concentrate rather than disperse urban traffic.¹³³

Working with the Public Roads Administration, state highway agencies took the lead in extending rural highways to the cities. Concern for higher speeds and greater traffic safety were high on the state engineers agenda. So too, was the legacy of the early highway projects that had quickly become obsolete due to much higher than anticipated travel demand. The new urban roadways they designed and built did not resemble the municipal boulevards, parkways or expressways, such as envisioned in the earlier local

¹³⁰Although the equal consideration language could be read to merely qualify whether or not to include existing highways in the system, the BPR adopted a broader reading which permitted consideration of local needs in planning new highways in new locations. Schwartz (1976). Schwartz argues that the interpretation was consistent with both the designations made in the 1955 *Yellow Book* and the policies in the 1944 *Interregional Highways* report.

¹³¹It turned out that the portions authorized in 1947 and 1955 constituted only 38,550 miles of the 40,000 authorized, leaving the remainder to be used for additional highways.

¹³²Schwartz (1976).

¹³³Taylor (2000).

and federal highway reports, but were engineered for the higher speeds and wider rights of way characteristic of rural highways. Thus the urban highway portions of the Interstate System were not only built to rural standards but were intended to easily accommodate travel demand twenty years in the future, with a substantial margin for error.

Another key consequence of the BPR's intermetropolitan policy reflected in its interpretation of Section 116(b) was the construction of additional lanes as well as more and larger interchanges in urban areas to handle local as well as intercity traffic.¹³⁴ With these improved, and what some have argued were overbuilt, engineering standards, the ease of travel on urban freeways meant that the automobile became an even greater competitor to transit. Transit could not raise peak hour fares to reflect rising peak-hour costs and to offset declining ridership for fear of losing even more riders, since it was now much faster and often cheaper at the margin to travel by car. Since tolls were not permitted on federally financed roads, highway users were not charged directly for the cost of the service (though they paid indirectly mainly through sales taxes on fuel purchases).¹³⁵ Ironically, the highway program did little to relieve downtown congestion, particularly during rush hours, but did have other far reaching consequences.

The transition of the Interstate Highway program from mainly an interurban

¹³⁴Schwartz (1976). According to Professor Schwartz, the increase may have been as much as 63% and increased initial cost estimates by \$4 billion (1958 dollars).

¹³⁵Jones (1985).

system to a substantially intra-urban system contributed to the problems faced by the transit industry. Congress, as many critics have charged, approved the freeway program with little consideration of its impact on urban development. Proponents did see the interstates' role in supporting downtown business by reducing traffic, but did not recognize, or chose to ignore, the impact that they would have in emptying central cities of middle income residents, who could now live in the suburbs and still enjoy a reasonable commute to work. Many businesses and industries could also now relocate to the periphery, assured of an accessible workforce and a growing number of suburban consumers. As a result, downtown areas lost a substantial number of retail and factory employees, while holding on to much of its white collar base, who by and large commuted by car. On the other hand, urban freeways expanded the employment base for white-collar jobs and served to concentrate regional automobile travel in downtown areas, increasing congestion and overwhelming local street capacity. Jones argues that the transit industry did not suffer from sprawl *per se*, since these areas were not profitable to serve anyway, so much as the loss of downtown travel, particularly during off-peak periods.¹³⁶

To make matters worse, many urban freeway projects were often routed through low income and minority areas either as part of the federal urban renewal/slum clearance

¹³⁶Jones (1985).

programs,¹³⁷ or to take advantage of lower acquisition land costs and less, at least initially, weak political opposition. That decision was made deliberately to support urban renewal policies embodied in the 1954 urban renewal legislation that viewed slum clearance as a solution to blighted inner city conditions.¹³⁸ White residents were free to move to the suburbs, while blacks and other minorities were forced to accept what housing was left, including replacement housing in so-called projects. This further reduced minority housing opportunities, and devastated local neighborhoods. At the same time federal highway policy promoted creating white middle class suburbs in outlying areas that were harder for transit to serve.¹³⁹

The transition compounded the problems that transit systems were facing as they continued to lose a greater share of off-peak travel to the automobile. The low density character of the new suburbs made it uneconomical for transit to expand into these areas and possibly retain some of their market. As a result, operators were faced with serving an increasingly impoverished and transit dependent population, while at the same time trying to retain its remaining peak period commuter customers. It was this selective, and as David Jones describes it, unbalanced loss of customers that drove up the industry's

¹³⁷Mobrey (1969), especially chapter 11, *White Roads Through Black Bedrooms*.

¹³⁸Schwartz (1976).

¹³⁹Kushner (1982), pp. 39-40. The author notes several rationales for locating freeway corridors in low income black neighborhoods including low land costs, lack of organized political resistance, slum clearance, and a desire to create physical barriers between poor black and middle class white areas.

operating costs while limiting opportunities to increase revenues through either fare increases or service expansion.¹⁴⁰

The spatial legacy of the streetcar era was a radial pattern of rail lines that were no longer consistent with the emerging patterns of urban travel. Transit increasingly served a greater proportion of peak period suburb-to-central city commutes. Transit fare structures and work rules, however, dated from an earlier era when transit was the dominant form of urban travel throughout the region and during all times of day. The historic practice of charging the same fare regardless of time of day no longer reflected the increasingly peaked nature of travel, which increased operating costs. What little public assistance was provided to transit did not address these issues and even less attention was paid to crafting legislation to address mobility needs.¹⁴¹

The combined impact on public transit was substantial as many street car systems that had already begun to decay due to overuse and deferred maintenance in the war years were gradually eliminated from most urban areas. Most were replaced by motor buses, in part to prevent competition from independent operators. These bus systems remained in operation but suburban residents commuted to the central city increasingly by car. As a result, transit ridership continued to decline throughout the post-war period, with

¹⁴⁰Jones (1985).

¹⁴¹Jones (1985).

increasing shares of low and minority patrons.

Why did post-war transportation planning largely ignore the needs of transit?

Schwartz notes a number of reasons why the 1956 Act failed to provide any funding for transit, including the lack of political organization among urban planners, and the fact that the American Transit Association was more interested at the time in legislation to exempt transit operators from highway-user taxes. But also, at the time most transit systems were still privately owned, and in general were financially well-off due to temporary war time increases in patronage. In addition, Congress was reluctant to become directly involved in urban issues such as local transit and wanted to avoid the appearance of diverting highway user taxes to other purposes. The urban highway program, in contrast, could be justified as a relatively small component of a larger national program, that was paid for essentially out of user fees and not general revenues. Moreover, at the time it was felt that transit and the automobile could both be accommodated by incorporating public transit facilities, such as bus lanes and rapid transit in freeway median strips.¹⁴² (Chapter Three describes some of the less than successful efforts to link highway and transit development in Los Angeles during this period.)

¹⁴²Schwartz (1976). Another factor cited by Schwartz was that the 1944 Act had previously designated the particular urban routes of the freeway system as part of the effort to build support for the program, and Congress was reluctant to revisit the issue, even in light of serious planning concerns, because it could appear it was reneging on its promises.

Many believe that the federal government overcommitted public funds to the construction of the Interstate System, particularly the urban portions. The initial estimates made by the Clay Committee placed the cost of the urban portions at 55 percent of the total expenses, mainly due to the cost of land acquisition in urban areas.¹⁴³ Others have concluded that transit suffered as a result of unfair competition from federally subsidized highway construction that made automobile use more attractive.¹⁴⁴ Whether, as Jones has suggested, the transit industry was already in decline due to structural problems even before the era of highway construction, the development of urban freeway systems, built to high speed rural standards, clearly allowed for the greater decentralization of urban areas beginning in the 1950s making it even harder for transit to serve middle class riders outside the increasingly narrow band of rush hour commuters.

The highway expansion and urban renewal programs of the 1950s and 1960s also disrupted many low income, minority communities and contributed some to the civil unrest experienced during this period. At the urging of President Kennedy, Congress passed legislation to provide replacement housing for those families displaced by freeway construction.¹⁴⁵ Despite this and later federal fair housing legislation, efforts to expand housing opportunities for the poor outside central cities met with strong resistance.

¹⁴³Schwartz (1976).

¹⁴⁴Jones (1985).

¹⁴⁵Brown (1998).

White opposition to housing integration confined many African American families to underserved inner city areas and contributed to the social conditions that fueled the urban riots of the 1960s. In the aftermath of the urban disturbances in many major urban centers, remaining white residents began to flee from central cities to the suburbs, often leaving African Americans in the majority. Over the years, civil rights legislation prohibiting discrimination in the sale or rental of housing has gradually increased opportunities for minorities to move into the suburbs, but central cities have remained disproportionately poor and minority.

Thus, while the federal government increased home ownership opportunities for middle-class whites in the suburbs, its housing, transportation, and urban renewal policies simultaneously destroyed the fabric of central city neighborhoods and any real possibilities for the middle class staying and owning homes in cities. The familiar appealing image of the ideal suburban home should be viewed in light of the federal government's actions during this period, which systematically eliminated any reasonable urban alternatives. Isolated central cities became areas of "rising taxes, declining services and expanding minority populations" while politically autonomous suburbs offered "space, the possibility of home ownership, low taxes, good schools and racial and economic homogeneity."¹⁴⁶ Completion of the basic interstate system and the construction of urban outerbelts accelerated this trend toward greater sprawl and racial

¹⁴⁶Chudacoff & Smith (2000), p. 263.

polarization. The resulting fragmented metropolises to borrow Robert Fogelson's description of Los Angeles, began to resemble the now familiar hole in the middle of the donut metaphor. That emerging urban spatiality, almost the reverse of the traditional hub-and-spoke pattern, profoundly affected transit operations. As more and more businesses and residents forsook central cities for the suburbs, the changes in household location and retail activity seriously affected the viability of urban transit.¹⁴⁷ As a result, transit became even less attractive to those living outside the urban cores and increasingly came to serve primarily the reservoir of poor, largely minority, inner city residents, and only secondarily an ever shrinking number of higher income, mostly white, central business district commuters.

The Era of Public Assistance and Acquisition, 1960-1976

Transit operators continued to lose patronage due to increasing family incomes and greater competition from private automobiles. By the early 1960s many systems were experiencing operating deficits, which grew more substantial throughout the decade.¹⁴⁸ The remaining transit companies throughout the country were forced to raise fares, reduce service, and when permitted, to convert from rail to bus, in order to stay in

¹⁴⁷Saltzman (1992).

¹⁴⁸Meyer and Gómez-Ibáñez (1981). By 1968, the transit industry as a whole encountered net operating losses.

business. While the specifics varied from city to city, buses and subway lines generally held their own but streetcar lines disappeared almost entirely. But these stop-gap measures did not address the fundamental shifts in the economics of transit brought about by the movement of upper and middle-income residents to the suburbs. For a time, most transit companies remained in private ownership. While some cities and counties subsidized transit, many governments provided little in the way of public assistance; the industry was still generally expected to be self-supporting.

It was becoming increasingly clear, however, that transit would need public subsidies to continue operations. Lobbied by big city mayors and railroad companies eager to rid themselves of costly urban transit properties, Congress was persuaded to authorize a program of low interest loans and grants for localities to purchase faltering transit lines. These funds were provided to satisfy urban and suburban constituencies, and in the view of some critics, without necessary standards to correct the structural problems in the transit industry, including often costly union agreements and a tradition of supplying wide service area and time of day coverage without regard to actual variations in demand. As a result, the new public transit operators faced the same problems as the private operators. What had started out as a barely self-sufficient private industry was quickly becoming a publically run and subsidized social service for the poor.

When it came, federal transit legislation (see Text Box) was predicated more on

the belief that transit had suffered after the war, not from its own inefficiencies and changing consumer locations and demographics, but from the heavy government support for highway development described above that had artificially inflated the demand for automobile travel. The solution envisioned was not to reduce overall highway funds, but rather to create more balance between highway and transit spending.¹⁴⁹ What is important to note, however, is that the policies that the transit advocates urged on Congress were primarily aimed at supporting downtown businesses by reducing traffic, not addressing the structural problems of population decline and loss of consumer base tied to the government's urban policies (or lack thereof). Rather, the problems of the transit were presented as a temporary consequence of the loss of access to investment capital to finance system improvements due to over concentration on highway programs.

In the 1960s, Congress began to pay increasing attention to the problems of urban areas. To this end, and in response to the political pressure from both cities and eastern commuter railroad interests, federal urban renewal legislation included provisions to assist public transit.¹⁵⁰ The Housing Act of 1961¹⁵¹ contained several transit elements: (1) \$925 million for demonstration projects, (2) a requirement for mass transit to be part of a comprehensive urban planning process, and (3) a \$50 million low-interest loan program

¹⁴⁹Jones (1985).

¹⁵⁰Transportation funding was viewed as a less controversial way to provide support to urban areas than other forms of direct assistance. Meyer and Gómez-Ibáñez (1981), p. 9.

¹⁵¹Housing Act of 1961, Pub. L. 87-70, 75 Stat. 149, June 30, 1961.

to mass transit agencies to acquire and make improvements to mass transit systems. This legislation encouraged transit development in all urban areas, both to rehabilitate old systems and to deploy new ones, but primarily to increase transit's share of the commuter market. Perhaps to counter years of anti-urban bias in state highway departments, the legislation created a city-federal government partnership that bypassed state governments and funneled aid through localities directly to local private and public operators. Federal involvement focused less on improving local bus service, than encouraging extending transit service to low density suburbs to improve service and reduce fares. For instance, the law sought to coordinate transit planning with highway construction and favored the use of existing unused freight trackage for new rapid transit system as an alternative to railroad commuter lines.¹⁵² The policy initiative, which was aimed at improving the transit industry's access to capital, did not take account of the growing needs of urban populations. It was, rather, designed to assist the suburb to central city commuter and to reduce downtown traffic congestion. Revitalizing urban areas and making them more attractive and accessible was seen as a way to counter urban sprawl.

These initial efforts were followed by the Federal-Aid Highway Act of 1962.¹⁵³ The main emphasis was placed on planning and organization at the regional scale. The federal government required *continuing* and *comprehensive* transportation plans be

¹⁵²Jones (1985).

¹⁵³Federal-Aid Highway Act of 1962, Pub. L. 87-866, 76 Stat. 1145, October 23, 1962. This legislation also included the urban extensions to primary roads in the Federal-Aid System.

developed as a *coordinated* part of an overall regional planning process designed to rehabilitate urban areas, and used its discretionary power over federal funds to promote that goal by conditioning project approvals on developing these metropolitan-wide plans. This came to be known as the 3C planning process.¹⁵⁴ Areas that did not have regional planning bodies had to form them. These Metropolitan Planning Organizations (MPOs) became the primary bodies responsible for highway and transit planning in urban areas.

The Urban Mass Transportation Act of 1964¹⁵⁵ marked the first legislation to provide direct federal assistance for transit capital projects, as an instrument of urban renewal and redevelopment. Section 3 of the Act provided for the Housing and Home Finance Administrator (HHFA) to make discretionary grants for up to 2/3 of the net project costs of constructing or acquiring mass transportation facilities and equipment in areas that had completed their regional plans.¹⁵⁶ The HHFA was later incorporated into the new Department of Housing and Urban Development (HUD) established by the Housing and Urban Development Act of 1965.¹⁵⁷ The Urban Mass Transportation Act of

¹⁵⁴23 U.S.C. § 134 (West 2002 & Supp. 2005). For a description see, Federal Highway Administration. Policy and Procedure Memorandum 50-9, Urban Transportation Planning. Washington, D.C., June 21, 1967.

¹⁵⁵Urban Mass Transportation Act of 1964, Pub. .L. 88-365, 78 Stat. 302, July 9, 1964.

¹⁵⁶Section 3 of the Urban Mass Transportation Act of 1964, Pub. L. 88-365, 78 Stat. 303, July 9, 1964.

Net project costs were defined as those costs not readily financed from transit revenues. Areas that had not completed plans were limited to receiving 50% of these costs.

¹⁵⁷Housing and Urban Development Act of 1965, P.L. 89-117, 79 Stat.451, August 10, 1965.

1965¹⁵⁸ established some small-scale programs supported by general revenues.¹⁵⁹ The 1966 Amendments to the Urban Mass Transportation Act¹⁶⁰ provided 2/3 federal matching funds for planning, engineering, and design of urban mass transportation projects and acquisition of private operations.

The 1966 Department of Transportation Act¹⁶¹ created the Department of Transportation (DOT) and authority to administer the mass transit program was transferred from HUD to the Urban Mass Transportation Administration (UMTA) within the new agency. However, authorizations for transit programs only totaled \$150 Million a year.¹⁶² Highway programs are administered by the Federal Highway Administration (FHWA).¹⁶³

¹⁵⁸Urban Mass Transportation Act of 1965, P.L. 80-117, title III, 79 Stat. 475, §304(b), August 10, 1965.

¹⁵⁹Brown (1998).

¹⁶⁰Urban Mass Transportation Act, P.L. 89-562, 80 Stat. 715, September 8, 1966.

¹⁶¹Department of Transportation Act of 1966, Pub. L. 89-670, 80 Stats. 931, 937, §6(a)(2)(B), October 15, 1966.

¹⁶²Weiner (1999).

¹⁶³The DOT consists of the Office of the Secretary and eleven individual operating administrations. In addition to the UMTA, now the Federal Transit Administration (FTA), and the FHWA, these include the Bureau of Transportation Statistics, US Coast Guard, the Federal Aviation Administration (FAA), the Federal Railroad Administration, the Maritime Administration, National Highway Traffic Safety Administration, the Research and Special Programs Administration, the Saint Lawrence Seaway Development Corporation, the Surface Transportation Board and the Transportation Administrative Services Center. The FHWA coordinates highway transportation programs in cooperation with the states. The FTA provides assistance in developing mass transportation systems for cities and local communities, including buses and rail vehicles, commuter ferryboats, trolleys, inclined railways, subways, and people movers.

The most significant aspect of these legislative acts for transit was that in a few short years what was previously a regulated, but essentially private industry, became instead a public concern catering to an increasingly polarized ridership of transit dependents and downtown commuters. The policy focus was, however on using transit as a tool for urban development more than serving existing riders.¹⁶⁴ Transit came to be viewed as a vital public service that could shape urban growth, revitalize central cities and urban neighborhoods, preserve open space, conserve energy, and reduce automobile pollution.¹⁶⁵ Initially, the limited federal involvement was designed to spur local communities to invest in transit, but the high cost necessary to build new rail lines meant that localities would soon be forced to demand, and receive, longer term commitments of funds as well as funds for ongoing operating expenses.¹⁶⁶

Although the federal government continued to expand support for the Federal-Aid Highway System during the 1960s,¹⁶⁷ by the early 1970s, with most private transit

¹⁶⁴Weiner (1999).

¹⁶⁵Jones (1985); Weiner (1992).

¹⁶⁶Jones (1985) argues that the problems of the transit industry did not stem from a lack of capital investment, but from increasing operating costs, especially labor costs, and declining revenues. Capital investment, particularly in expanding service to suburban areas, only increased costs without generating significant improvement in revenues.

¹⁶⁷The Federal-Aid Highway Program provides federal financial assistance to the states to construct and improve urban and rural roads, and bridges. This program provides funds for general improvements and development of safe highways and roads. The Federal-Aid Highway Act of 1961 committed an additional \$11.6 billion in federal funds to completing the interstate system, raising the total federal commitment to \$37 billion. The Act also extended the completion date to 1971. The Federal-Aid Highway Act of 1962 mandated urban transportation planning in urbanized areas as a condition for receiving federal funds. The

(continued...)

properties having been purchased and bus fleets modernized and upgraded, a shift occurred in federal policy toward greater emphasis on expanding mass transit, particularly rail construction, in response to environmental and other social concerns. Proponents of this change ironically saw rail development as a tool to counteract urban sprawl. They believed that rail construction could influence the real estate market and local land use decisions to promote higher urban densities by making the CBD more accessible.¹⁶⁸ The Urban Mass Transportation Assistance Act of 1970¹⁶⁹ increased funding for transit projects to \$500 million per year and established the first long-term commitment of federal funds for transit projects by authorizing multi-year grants. It authorized a \$3.1 billion¹⁷⁰ program of capital grants for urban mass transit. That same year, the Federal-Aid Highway Act of 1970¹⁷¹ expanded the federal focus on urban areas by establishing the Federal-Aid Urban Highway System, labeled D, to service major activity centers in urban areas and connect them with the existing urban freeway extensions. The Act also permitted Highway Trust Funds to be used for public transit projects such as freeway bus

¹⁶⁷(...continued)

Federal-Aid Highway Act of 1968 established state and local clearinghouses for comprehensive planning. It also increased the size of the Interstate System by 1500 miles to a total of 42,500 miles. By 1976, 8,600 of those miles were designated as urban. Schwartz (1976).

¹⁶⁸Jones (1985).

¹⁶⁹Urban Mass Transportation Assistance Act of 1970, Pub. L. 91-453, 84 Stat. 962, October 15, 1970.

¹⁷⁰Equivalent to \$15.1 million in 2004 dollars

¹⁷¹Federal-Aid Highway Act of 1970, 84 Stat. 1713, December 31, 1970. In addition, it also extended federal gasoline and excise taxes that had been set to expire, to 1977, the new completion date for the Interstate System, then expected to cost \$70 billion. The Act also increased the federal aid share for non-interstate projects to 70 percent. Brown (1998).

lanes and other non-rail highway-related transit projects.

Legislation that would become the Federal-Aid Highway Act of 1973,¹⁷² was initially delayed over disputes regarding provisions to use Highway Trust Fund monies to finance mass transit projects more generally.¹⁷³ When finally adopted, the bill introduced new flexibility in transit funding, significantly broadening the scope of MPOs responsibility to create greater balance between highway and transit spending.¹⁷⁴ The Act increased the federal matching share for mass transit projects from 67 percent to 80 percent, and provided that some Interstate System funds could be released from highway projects and used for mass transit projects.¹⁷⁵ It also permitted Federal-Aid Urban

¹⁷²Federal-Aid Highway Act of 1973, Pub. L. No. 93-87, § 102, 87 Stat. 250, August 13, 1978.

¹⁷³Weiner (1999). At this time highway funding was on a two year budget cycle and would normally have been adopted in 1972.

¹⁷⁴Congress set up MPOs for each urban area over 50,000 in population to provide for "continuing, coordinated and comprehensive" transportation planning between federal, state and local authorities. Pub. L. No. 87-866, § 9(a), 76 Stat. 1148, October 23, 1962 (adding § 134 to Title 23 U.S.C., ch. 1), amended by Pub. L. No. 91-605, § 143, 84 Stat. 1737, December 31, 1970; Pub. L. No. 95-599, § 169, 92 Stat. 2723, November 6, 1978; Pub. L. No. 102-240, Title I, § 1024(a), 105 Stat. 1955, December 18, 1991; Pub. L. No. 102-388, Title V, § 502(b), 106 Stat. 1566, October 6, 1992; Pub. L. 103-429, § 3(5), 108 Stat. 4377, October 31, 1994; Pub. L. 104-59, Title III, § 317, 199 Stat. 588, November 28, 1995; Pub. L. 105-178, Title I, § 1203 (u) to (m), (o), 112 Stat 170 to 179, June 9, 1998; Pub. L. 105-206, Title IX, § 9053 (c), 112 Stat. 839, July 22, 1998 (current version at 23 U.S.C.A. § 134 (West 2002)). As currently written, this section provides that is in the national interest to "encourage and promote the development of transportation systems to maximize the mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution." 23 U.S.C.A. § 134(a) (West 2002). MPOs boundaries are designated by agreement between the MPO and the governor of the state covering at least the existing urbanized area and any contiguous areas expected to become urbanized within 20 years. *Id.* subsection (b).

¹⁷⁵The monies would be repaid from the General Fund. In effect, this represented borrowing from the Highway Trust Fund for mass transit projects. Since these funds could be dispersed under contract authority, though, they did not require Congressional authorization. Congressional Budget Office (1978).

Highway System funds to be used for capital expenses on urban mass transit projects in place of withdrawn urban segments with a 70 percent match. The majority of these funds were spent on rail transit.¹⁷⁶ Between 1965 and 1974, the federal government provided a total of \$3.3 billion in capital grants to purchase and upgrade transit properties, which could be used for equipment purchases, right of way acquisition, or construction but did not stem the loss of ridership.¹⁷⁷

The National Mass Transit Assistance Act of 1974¹⁷⁸ increased overall authorizations to more than \$10 billion over six years. For the first time, Congress authorized funds to be used for transit operations on a 50-50 match basis. Localities were required to provide local tax support in order to obtain the matching funds. The Act created a formula grant program, Section 5, that included \$3.5 billion to provide funding directly to urbanized areas for either capital spending or operating expenses. Funding was based on population and population density.¹⁷⁹ A total of \$7.8 billion could be

¹⁷⁶Schwartz (1976). Part of the rationale for this new flexibility was based on an acceptance of the intrametropolitan rationale for the Interstate System, the result of which some urban designations had been made due solely to the statutory mandate in Section 116(b) to give equal consideration to local traffic needs. Since these sections were not necessary for a continuous and connected highway system needed they could be replaced by transit projects designed to reduce traffic. *Id.*

¹⁷⁷Jones (1985), p. 82.

¹⁷⁸Mass Transit Assistance Act of 1974, Pub. L. 93-503, 88 Stat. 1565, November 26, 1974; as amended by Pub. L. 95-599, Title I, § 134(d), 92 Stat. 2709, November 6, 1978; Pub. L. 97-424, Title III, § 318(a), 96 Stat. 2154, January 6, 1983, Pub. L. 103-273, § 7(b), 108 Stat. 1388, July 5, 1994. The 1978 Act provided \$1.4 billion in operating assistance through 1982.

¹⁷⁹While the formula favored densely settled urban areas on a per capita basis, it actually favored smaller areas on a per rider basis. Jones (1985).

distributed by the Secretary of Transportation under Section 3 with up to half of the these funds available for operating assistance if substantial additional state and local funds were provided to the project. The Act also encouraged greater cooperation between highway and transit planning by requiring transit projects to meet the same 3C planning standards applied to highways.¹⁸⁰ In addition, it required all transit agencies receiving federal funds to offer half-priced fares to seniors and handicapped persons during off-peak times.¹⁸¹ Federal funding still favored capital programs over operating assistance, though. Of the available formula funds the federal government provided only a 50 percent match of operating costs but 80 percent of the net project cost of new capital projects.¹⁸² This formula encouraged local operators to cover a higher proportion of operating expenses from system revenues in order to be in position to leverage larger amounts of federal dollars for capital projects.

In 1975, the FHWA and UMTA issued joint regulations requiring MPOs to develop a long range Regional Transportation Plan (RTP) as well as a short term Transportation Improvement Program (TIP) containing a list of all highway and transit

¹⁸⁰Section 105(g). See Section 134 of the Highway Act.

¹⁸¹Weiner (1999).

¹⁸²49 U.S.C. § 5307(e) (West 1997 & Supp. 2005). Net project cost means the cost of a project that reasonably cannot be financed from revenues. 49 U.S.C. § 5302(a)(8) (West 1997 & Supp. 2005).

projects to be undertaken over the next five years, consistent with the RTP.¹⁸³ These regulations also established procedures for designating MPOs to carry out the joint planning process. In 1976, UMTA developed its own policy guidelines for funding mass transit projects. These required multimodal plans, that could be implemented in stages, consistent with reasonably available funding. They also required plans to include an alternatives analysis and provided that the selected approach must meet social, environmental, and transportation goals for the next 5 to 15 years in a cost efficient manner, consistent with the area s long range planning. As a result of these federal regulations, transportation planners had to conduct more thorough evaluations of the social, economic, and environmental consequences of both highway and transit plans.¹⁸⁴

Throughout the 1970s, rail was viewed as an important component of urban redevelopment and the availability of large amounts of federal funds encouraged massive rail capital projects. Existing rail lines were extended in Boston, Chicago, Cleveland, New York, and Philadelphia, and new systems were constructed in Atlanta, Baltimore, Miami and Washington D.C.¹⁸⁵ Unfortunately, many of these new systems failed to meet expectations in terms of projected ridership or cost recovery and often simply diverted

¹⁸³FHWA/UMTA Planning Assistance and Standards. Federal Register, Vol. 40, No. 181, pp. 42976-84, September 17, 1975.

¹⁸⁴Weiner (1999), pp. 96-7.

¹⁸⁵The BART system in the San Francisco Bay Area was already under construction using local funds but federal monies helped to relieve massive cost overruns. Meyer and Gómez-Ibáñez (1981). See Adler (1987).

passengers from existing bus lines.¹⁸⁶ The combination of capital and service improvements, together with fare stabilization through operating subsidies managed to slow the decline in transit ridership, though the industry still experienced a 21 percent drop in patronage over this period. While federal subsidies permitted expanded transit service in suburbs and smaller cities, patronage declined in central city areas where it was most needed.¹⁸⁷ By 1978, farebox revenues only covered about half of all operating costs, as transit ridership, particularly rail, reached all time lows.

This policy direction did not serve needs of the vast majority of urban transit users but reflected a continued bias toward capital intensive rail construction. By the later years of the decade, transit was viable in serving only longer distance radial commuting trips to center of large and dense metropolitan areas with congested cores and limited highway access, and shorter distance trips in neighborhoods that have extremely high population densities and many low-income residents usually located near city centers.¹⁸⁸ This bifurcation of transit into these two submarkets, radial commuting and innercity trips, reflected two separate groups of transit patrons differentiated by race, income, age and gender. Over the next period of transit development, environmental concerns would take center stage, and federal and state transit policies would concentrate even more on

¹⁸⁶Meyer and Gómez-Ibáñez (1981).

¹⁸⁷Jones (1985).

¹⁸⁸Meyer and Gómez-Ibáñez (1981).

expanding service to the former, increasingly at the expense of the latter.

Major Federal Transit Legislation, 1961-1976

Housing Act of 1961, 75 Stat. 149, June 30, 1961

Federal-Aid Highway Act of 1962, 76 Stat. 1145, October 23, 1962

Urban Mass Transportation Act of 1964, 78 Stat. 302, July 9, 1964

The Urban Mass Transportation Act of 1965,

The 1966 Amendments to the Urban Mass Transportation Act,

Department of Transportation Act of 1966, 80 Stats. 931, October 15, 1966

Urban Mass Transportation Assistance Act of 1970, 84 Stat. 962, October 15, 1970

Federal-Aid Highway Act of 1970, 84 Stat. 1713, December 31, 1970

Federal-Aid Highway Act of 1973, 87 Stat. 250, August 13, 1973

National Mass Transportation Assistance Act of 1974, 88 Stat. 1565, November 26, 1974

Federal-Aid Highway Act of 1976, 90 Stat. 425, May 5, 1976

Source: Congressional Budget Office (1978)

The Rebirth of Transit, 1977 - Present

The late 1970s marked a period of emerging awareness of the environmental and social consequences of public transportation policies, and increasing opposition in many cities to highway projects and urban renewal schemes which disrupted innercity neighborhoods.¹⁸⁹ Mass transit came to be seen as an important component of strategies to revitalize central cities, conserve fossil fuels, and increase mobility for transit dependents.¹⁹⁰ Transit, particularly rail transit, was embraced by a coalition of environmentalists, slow-growth, and community advocates, civil rights groups, and many urban planners as a clean alternative to continued reliance on the automobile. Nevertheless, some doubted the efficacy of capital intensive investment in rail systems arguing they would not meet the needs of transit dependents, would do little to reduce congestion, and would increase social and economic polarization. Critics argued for more emphasis on express buses, van pools, bus lanes, handicapped services, light rail and other alternative solutions.¹⁹¹ Still, there was a shift in strategy to addressing other goals besides congestion relief alone and this was accompanied by an increase in funding for transit, initially for construction but later also for expenses of operation.

¹⁸⁹Reno, Nevada is credited as the first city to oppose a highway project in 1958. In 1965, San Francisco refused to permit construction of the Embarcadero Freeway. Federal and state officials agreed to a halt in construction of the Century Freeway project in Los Angeles (see discussion in Chapter Six). See Schwartz (1976).

¹⁹⁰Saltzman (1992).

¹⁹¹Meyer and Gómez-Ibáñez (1981), ch. 1.

As a result of the infusion of federal funds, transit ridership has held fairly steady over the last thirty years, and has even increased some since 1995 (see Figure 2.2). The recent growth in ridership, though, has mainly occurred in the south and west where cities such as Atlanta, Los Angeles, and San Diego have built new fixed rail lines; bus patronage has tended to hold steady or even decline. There has, however, been a growing modal shift within public transit use from buses and subways to commuter rail. Data from the American Public Transit Association show that between 1977 and 1995, the number of all unlinked transit trips rose from 7,286 million to 7,763 million, peaking in 1990 at 8,799 million. However, the number of bus trips fell somewhat from 4,949 million to 4,848 million and the number of heavy rail trips dropped from 2,149 million to 2,033 million, though both experienced growth in the interim before declining. As a result, the proportion of transit trips made by bus declined from 67 percent to 63 percent and those by subway fell from 29 percent to 26 percent. On the other hand, the number of trips by light rail and commuter rail increased over the same period. Light rail trips rose dramatically from 103 million to 251 million annually, an increase from 1.4 percent to 3.2 percent. Between 1983 and 1995 annual commuter rail trips increased from 262 million to 344 million, or 4.4 percent of all transit trips.¹⁹²

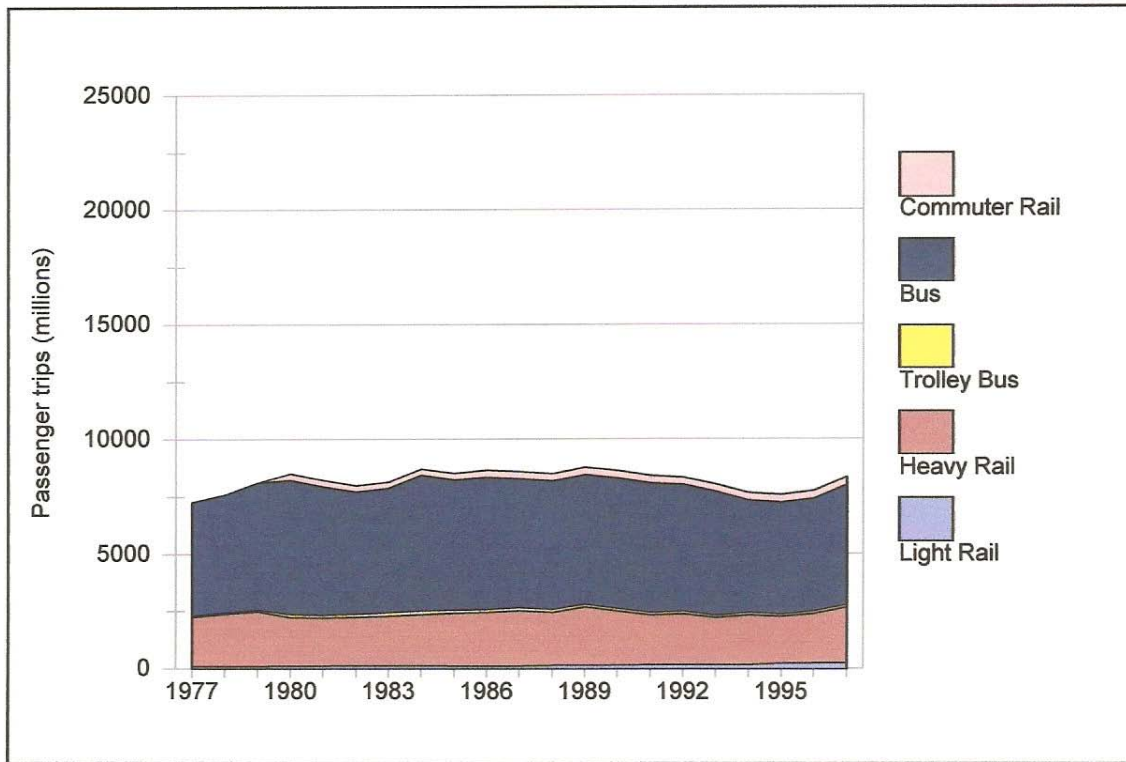
Since 1995, overall transit use has again grown, reaching 9,653 million in 2001. Bus trips reached 5,868 million, but now constitute just over 60 percent of transit usage.

¹⁹²APTA (1999).

By contrast, commuter rail has grown steadily from 328 million trips in 1990 to 419 million in 2001. Light rail increased to 336 million trips over the same period and now makes up 3.5 percent of all trips. Heavy rail grew to 2,728 million trips, or 28 percent.¹⁹³ In sum, while transit used remained relatively stable from the late 1970s through the mid-1990s, at between 7 ½ to 8 ½ million trips, the proportion of bus trips fell steadily. Though transit use appears to be on the upswing again across all modes, bus use continues to decline proportionately. These shifts mirror recent trends in public transit investments which have emphasized new rail construction over bus operations, as discussed below.

¹⁹³APTA (1999); APTA (2005).

Figure 2.2. Transit Use by Mode, 1977-1997



Source: Data from American Public Transit Association (1999).

Early Federal Air Quality Legislation

Congress responded to growing pressures to clean up the environment first in 1968, by passing the National Environmental Policy Act, which among other things, required a detailed environmental impact statement (EIS) for every federal project or action that might have a significant effect on the environment; a requirement which

included federally-funded highway and transit projects.¹⁹⁴ Two years later, the 1970 Amendments to the federal Clean Air Act¹⁹⁵ created the Environmental Protection Agency (EPA) and empowered it to set minimum National Ambient Air Quality Standards or NAAQS, for atmospheric concentrations of certain key pollutants, including carbon monoxide (CO) and ozone (O₃) emissions,¹⁹⁶ which are generally associated with internal combustion engines and have numerous adverse public health and welfare effects.¹⁹⁷ Conformance with these standards was one issue to be addressed in the EIS.¹⁹⁸ The 1970 Amendments gave states broad authority to adopt policies to encourage public mass transit as an alternative to automobile travel.¹⁹⁹

Under the 1970 Amendments, the EPA adopted regulations mandating that all states meet established air quality standards. States were required to prepare State Implementation Plans, or SIPS, identifying measures to be taken to meet the standards

¹⁹⁴National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852, January 1, 1970, codified at 42 U.S.C.A. § 4331 et seq.

¹⁹⁵Clean Air Amendments of 1970, Pub. L. 91-604, 84 Stat. 1676, December 31, 1970.

¹⁹⁶Pub. L. No. 91-604, § 4(a), 84 Stat. 1679, December 31, 1970 (adding § 109 to the Clean Air Act), as amended by Pub. L. 95-95, Title I, § 106, 91 Stat. 691, August 7, 1977, codified at 42 U.S.C.A. § 7409(a) (West 2003). There are also limits set for nitrogen dioxide, sulfur dioxide, particulate matter and lead.

¹⁹⁷See 42 U.S.C.A. § 7401(a)(2) (West 2003).

¹⁹⁸Congressional Budget Office (1978), p. 46.

¹⁹⁹38 Fed. Reg. 30,629-30. See Garrett & Wachs (1996).

by specified deadlines.²⁰⁰ Mandated Transportation Control Plans (TCPs) were required to identify and reduce excess emissions from all proposed changes in the metropolitan transportation system. A key consequence of these requirements was an emphasis on reducing the number of single-occupant vehicle (SOV) trips, which led to renewed focus on public transit.²⁰¹ But at this time air control planning remained largely separate from the transportation planning process.²⁰²

Since the mid 1970s, Congressional transportation legislation has reflected a major shift in priorities for toward addressing environmental concerns (see Text Box). The beginnings of this change in course came in the 1977 amendments to the Clean Air Act,²⁰³ which mandated greater coordination between transportation and environmental planning. Designated non-attainment areas, those which still fell below the NAAQS, had to revise their SIPs by 1979 to meet the standards by not later than 1982. All federal transportation projects, licenses, permits, financial assistance, and other activities had to

²⁰⁰Title I, § 110, Pub. L. No. 91-604, § 4(a), 84 Stat. 1678, 1680, December 31, 1970 (adding § 110 to the Clean Air Act, as amended by Pub. L. 93-319, § 4, 88 Stat. 256, June 22, 1974; Pub. L. 95-95, Title I, §§ 107, 108(a)(2), 91 Stat. 691, 693, August 7, 1977; Pub. L. 95-190, § 14(a)(1)-(6), 91 Stat. 1399, November 16, 1977; Pub. L. 97-23, § 3, 95 Stat. 142, July 17, 1981; Pub. L. 101-549, § 101(b), 104 Stat 2404, November 15, 1990, codified at 42 U.S.C.A. § 7410 (West 2003).

²⁰¹Weiner (1999).

²⁰²The Federal-Aid Highway Act of 1970 did direct the Secretary of Transportation to issue guidelines to assure that future highway construction would be "consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region." Pub. L. 91-605, § 136(j), 84 Stat. 1713, 1736, December 31, 1970 (current version at codified at 23 U.S.C.A. § 109(j) (West 2002)).

²⁰³Clean Air Act Amendments of 1977, Pub. L. No. 95-95, 91 Stat. 685, August 7, 1977.

conform to the approved SIP and MPOs were prohibited from approving any project, program or plan, which did not conform to an approved state air cleanup plan.²⁰⁴ In some cases, areas with severe pollution problems, like southern California, could obtain an extension to 1982 for submitting their plan provided they adopted comprehensive measures to expand public transit to divert commuters away from automobile use.²⁰⁵ They also had to show that they would meet the standards by 1987 and that they were making reasonable further progress (RFP) toward meeting those goals in the meantime. Failure to adopt the required plans or meet the specific reductions could result in a loss of federal transportation funds.

²⁰⁴Pub. L. No. 95-95, Title I, § 129(b), 91 Stat. 749, August 7, 1977, as amended by Pub. L. No. 95-190, § 14(a)(59), 91 Stat. 1403, November 16, 1977, (adding and amending § 176(c) of the Clean Air Act), as amended by Pub. L. 101-549, §§ 101(f), 110(4), 104 Stat. 2409, 2470, November 15, 1990; Pub. L. 104-59, Title III, § 305(b), 109 Stat. 580, November 28, 1995; Pub. L. 104-260, § 1, 110 Stat. 3175, October 9 1996; Pub. L. 106-377, § 1(a)1 [Title III], 114 Stat. 1441, 1441A-44, October 27, 2000 (current version at 42 U.S.C.A. § 7506(c) (West 2003)). The section made the relevant federal department or agency affirmatively responsible for assuring conformity. For instance, the Federal Highway Administration (FHWA) in the DOT was responsible for assuring the conformity of any federally-funded highway projects, though by agreement it consulted with the EPA.

²⁰⁵Pub. L. No. 95-190, §14(a)(4), 91 Stat. 1399, November 16, 1977 (adding § 110(a)(3)(D), originally codified at 42 U.S.C. § 7410(a)(3)(D)), repealed by Pub. L. No. 101-549, Title I, § 101(d)(1), 104 Stat. 2409, November 15, 1990. See 44 Fed. Reg. 20,375, ¶ III.A.2; 43 Fed. Reg. 21,675-6, ¶¶ 2-3.

Major Federal Transit and Environmental Legislation, 1977-2004

Clean Air Act Amendments of 1977, 91 Stat. 685, August 7, 1977

Federal Public Transportation Act of 1978, 92 Stat. 2735, November 6, 1978

Federal Public Transportation Act of 1982, 96 Stat. 2097, 2140, January 6, 1983

Federal Mass Transportation Act of 1987, 101 Stat. 233, 246, April 2, 1987

Clean Air Act Amendments of 1990, 104 Stat. 2399, November 15, 1990

Federal Transit Act Amendments of 1991, 105 Stat. 2087, December 19, 1991

Federal Transit Act of 1998, 112 Stat. 338, June 9, 1998

Federal Public Transit Act of 2005, 119 Stat. 1544, August 10, 2005

Highway and transit funding, which up until then had remained largely separate, were combined in the \$51.4 billion Surface Transportation Assistance Act of 1978.²⁰⁶ The Act provided \$13.6 billion for public transportation for fiscal years 1979 through 1982. In order to facilitate the construction of mass transit projects to in part meet air quality requirements, as well as revitalize distressed urban areas,²⁰⁷ Title III of the Act, the

²⁰⁶Surface Transportation Assistance Act of 1978, Pub L. 95-599, 92 Stat. 2689, November 6, 1978. The federal match for transit substitute projects was raised to 75 percent.

²⁰⁷Weiner (1999). Weiner suggest that transportation funding became part of a new federal urban growth strategy to counteract economic dislocation, sprawl, physical deterioration, and other problems brought on

(continued...)

Federal Public Transportation Act of 1978,²⁰⁸ established separate capital grants and operating formula grants for urban areas, fixed guideway projects, and nonurban areas.²⁰⁹

The EPA and DOT began to cooperate on ways to coordinate pollution control and transportation planning.²¹⁰ A 1978 Memorandum of Understanding set out ways the DOT and EPA would assure integration of both processes. At the same time, the UMTA also finalized its own policy to encourage the development of rail transit in densely populated urban centers.²¹¹ Local area policies had to support private development around stations, and revitalizing adjacent neighborhoods and the CBD. This represented a shift from funding the acquisition of transit properties to capital investment in new construction, primarily rail, as a tool of urban development.²¹²

Though the 1977 Amendments did not specifically define what conformity meant,

²⁰⁷(...continued)

in part by decades of federal policies. Emphasis was placed on cost-effective transportation programs that would increase mobility.

²⁰⁸Federal Public Transportation Act of 1978, Pub L. 95-599, Title III, 92 Stat. 2735, November 6, 1978.

²⁰⁹Urbanized areas over 750,000 in population received 85% of the new funds with the remainder going to smaller areas. Like its urban counterpart, the Section 18 Formula Grant program for nonurbanized areas, provided an 80 percent federal match for capital programs and 50 percent for operating assistance.

²¹⁰The "conformity" provisions in the 1977 Clean Air Act were designed to give legislative authority for the review criteria in the DOT/EPA 1975 joint guidance, which required regional transportation plans and projects to be measured against ambient air standards. 136 Cong. Rec. S16972 (October 27, 1990).

²¹¹UMTA. Policy Toward Rail Transit. Federal Register, Vol 43, No. 45, pp. 9428-30, March 7, 1978.

²¹²Weiner (1999).

the DOT and the EPA issued a joint guidance regarding establishing conformity in nonattainment areas between transportation plans, programs, and individual projects with SIPs.²¹³ Previously, the EPA and DOT had reached agreement that the EPA could comment on the conformity of all plans and programs.²¹⁴ These were followed in 1981 by DOT conformity regulations.²¹⁵ Transportation plans and programs would be considered conforming if they did not adversely affect the transportation control measures (TCMs) for reducing automobile emission contained in the SIP, and contributed to reasonable further progress in implementing them. Projects conformed if they came from a conforming TIP or otherwise did not affect TCMs in the SIP. Sanctions, including loss of federal funds, could be imposed for failure to demonstrate conformity. Areas with severe pollution problems, such as Los Angeles, began to include their rail programs as a significant element in their plans for reducing automobile emissions.

By the 1980s, public ownership of transit systems had become the norm, and the notion of federal and state support for public transit was well accepted, although during the Reagan era Republicans in Congress attempted unsuccessfully to eliminate operating

²¹³DOT/EPA, Procedures for Conformance of Transportation Plans, Programs and Projects and Clean Air Act State Implementation Plans, June 12, 1980.

²¹⁴DOT/EPA, Memorandum of Understanding Regarding Integration of Transportation and Air Quality Planning, June 1978.

²¹⁵DOT, Air Quality Conformity and Priority Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs, 46 Federal Register 4829 (January 26, 1981). These superseded the 1975 Joint Guidance and provided that the procedures would satisfy the conformity requirements of 23 U.S.C. § 109(j).

subsidies for transit.²¹⁶ There was renewed interest, however, in developing new rail systems. Congress authorized \$1 billion to expand existing systems and \$400 million for new systems. Priority for funding was to be based on local planning studies demonstrating cost effectiveness and on the degree of local fiscal support. However, due to opposition by the Reagan administration to approving urban rail transit projects, Congress began to specify funding for particular projects in authorization bills thus bypassing the agency review process.²¹⁷

The Surface Transportation Assistance Act of 1982,²¹⁸ raised the federal gasoline tax five cents and directed that one cent of that increase be placed in a newly-created Mass Transit Account in the Highway Trust Fund, providing nearly \$15 billion over four years to pay for mass transit capital projects (see Table 2.1). Title III, the Federal Public Transportation Act of 1982,²¹⁹ added a new Section 9A under which these funds were distributed to urban areas under a set formula in fiscal year 1983, but were allocated at the discretion of the Secretary in following years. The Act also established a new Section 9

²¹⁶Saltzman (1992).

²¹⁷Weiner (1999).

²¹⁸Surface Transportation Assistance Act of 1982, Pub. L. 97-424, 96 Stat. 2097, 2140, January 6, 1983; as amended by Pub L. 98-363, 98 Stat. 435, July 17, 1984.

²¹⁹Federal Public Transportation Act of 1982, Pub. L. 97-424, Title III, 96 Stat. 2097, 2140, January 6, 1983; as amended by Pub L. 98-363, 98 Stat. 435, July 17, 1984.

block grant program, which made general funds available under a similar formula.²²⁰ The Section 9 program became the major funding mechanism for mass transit projects. Funding for transit operations was retained but the Reagan Administration signaled its desire to eventually phase them out.²²¹

Table 2.1. Federal Urban Mass Transit Authorizations, FY 1983-1986 (\$ Millions)

	1983	1984	1985	1986
Discretionary Capital Grants	\$779.0	1,250.0	1,100.0	1,100.0
Formula Grants		2,750.0	2,950.0	3,050.0
Transit Substitutions	365.0	380.0	390.0	400.0
R&D, Admin., Misc.	86.3	91.0	100.0	100.0
Total	1,230.3	4,471.0	4,540.0	4,650.0

Source: Extract from Weiner (1999), Table 10.1, p. 132.

²²⁰Pub. L. 97-424, 96 Stat. 2141, § 303(a) (adding sections 9 and 9A to the Urban Mass Transportation Act).

²²¹Weiner (1999).

The Federal Mass Transportation Act of 1987²²² provided another \$17.8 billion for mass transit from 1987 to 1991 (see Table 2.2). Forty percent of all Section 3 Discretionary Capital funds would go to new starts, 40 percent to rail modernization, but only 10 percent each for major bus projects and other discretionary programs.²²³ The criteria for funding new fixed rail included an alternative analysis, cost-effectiveness, and an acceptable local financial commitment.²²⁴ By the end of the 1980s, federal spending on transit had reached almost \$5 billion annually.

Table 2.2. Federal Urban Mass Transit Authorizations, FY 1987-1991 (\$ Millions)

	1987	1988	1989	1990	1991
Discretionary Capital Grants	\$1,097.2	1,208.0	1,255.0	1,305.0	1,405.0
Formula Grants	2,000.0	2,350.0	2,350.0	2,350.0	2,350.0
Transit Substitutions	200.0	200.0	200.0	200.0	200.0
R&D, Admin., Misc.		50.0	50.0	50.0	50.0
Total	3,297.2	3,558.0	3,605.0	3,655.0	3,755.0

Source: Extract from Weiner (1999), Table 11.1, p. 147.

²²²Federal Mass Transportation Act of 1987, Pub. L. 100-17, Title III, §§ 301 et seq., 101 Stat. 233, 246, April 2, 1987.

²²³Pub. L. 100-17, § 305, 101 Stat. 224, April 2, 1987.

²²⁴Pub. L. 100-17, § 303, 101 Stat. 223, April 2, 1987.

The 1990 Clean Air Act Amendments and ISTEA

Despite the 1977 Congressional reforms and the tightened conformity provisions to ensure that transportation improvements were consistent with national air quality goals, the rapid growth of SOV trips, which increased traffic volumes leading to higher pollution levels, remained a concern.²²⁵ By 1987, it was apparent that new efforts would be needed. The 1990 Clean Air Act Amendments²²⁶ significantly expanded the transportation planning requirements contained in the 1977 Clean Air Act. The new law sought to curb emissions by reducing the growth in automobile travel.²²⁷ Areas with severely pollution problems, such as Los Angeles, were required to adopt specific and enforceable transportation control strategies to offset any growth in emissions from increases in the number of vehicle trips (VT) or vehicle miles traveled (VMT).²²⁸

The 1990 Clean Air Act Amendments made pollution reduction the driving force behind transportation planning. The main goal was to reduce emissions from automobiles, which given the fact that much of the potential benefits from improvements

²²⁵Yuhnke (1991).

²²⁶Clean Air Act Amendments of 1990, Pub. L. No. 101-549, 104 Stat. 2399 (1990), codified as amended at 42 U.S.C.A. §§ 7401 et seq. (West 1995).

²²⁷Gibson (1992). All non-attainment areas had to reduce emissions from volatile organic compounds by 15%. More polluted areas had, in addition, to show they were making reasonable further progress by demonstrating a 3% reduction during each three year period, consistent with the SIP

²²⁸Pub. L. 101-549, Title I, § 182(d)(1)(A), 104 Stat. 2426, November 15,1990, as amended by Pub. L. 104-70, § 1, 109 Stat. 773, codified at 42 U.S.C. § 7511 (West 2003).

to the internal combustion engine have already been achieved, means slowing the increase if not decreasing the number of automobile trips and vehicle mileage. Conformity requirements were strengthened. Transportation projects could not individually or in the aggregate cause or contribute to new violations of the NAAQS or increase the frequency or severity of existing ones. For the first time conformity determinations would be based on measurable, quantitative standards. Public transit was widely viewed as a significant component of that strategy.²²⁹

The 1990 Clean Air Amendments were complemented by the Intermodal Surface Transportation Efficiency Act of 1991, commonly known as ISTEA.²³⁰ With the Interstate System largely completed, attention shifted to highway maintenance and greater emphasis on alternative forms of transportation. This \$155 billion, six-year omnibus transportation finance package, provided \$31.5 billion for mass transit capital and operations, roughly 21 percent of total authorizations. Consistent with the policy of greater balance in transportation options, and as the first post-Interstate federal surface transportation legislation, ISTEA was intended to develop an economically efficient and

²²⁹Weiner (1999); Garrett & Wachs (1997).

²³⁰Intermodal Surface Transportation Efficiency Act of 1991, Pub.L. No. 102-240, Title I, 105 Stat. 1914, December 19, 1991 (codified as amended at 23 U.S.C.A. §§ 101 et seq. (West 2002 & Supp. 2005)). The Act established the National Highway System (NHS) consisting of 160,000 of the most important roadways, including the Interstate System (which was renamed the Dwight D. Eisenhower National System of Interstate and Defense Highways). The NHS received \$21 billion in funding.

environmentally sound national *intermodal* transportation system.²³¹ It gave states, and especially Metropolitan Planning Organizations, greater flexibility in addressing transportation issues and provided funding for transportation programs that aimed to contribute to meeting air quality standards.²³² The Act created the Surface Transportation Program, making almost \$24 billion available over six years for a variety of highway and mass transit projects, including bicycle and pedestrian facilities. It also provided \$6 billion in funding for the new Congestion Mitigation and Air Quality Improvement Program (CMAQ) which could be used for highway and transit project designed to reduce ozone and CO level in nonattainment areas to attain the NAAQS. The Act also authorized \$750 million to build a maglev prototype and another \$25 million to develop high speed ground technologies.²³³

ISTEA reinforced the planning requirement of the Clean Air Act by requiring a statewide planning transportation planning process that considers economic, energy, environmental and social effects of highway and transit programs and projects. It established boundaries for MPOs for nonattainment areas and required them to coordinate their long range transportation plans with the transportation control measures in the SIP.

²³¹For a discussion of the land use/transportation/air quality ("LUTRAQ") connection between the 1990 Amendments and ISTEA, see Netter and Wickersham (1993).

²³²U.S. Department of Transportation, *Intermodal Surface Transportation Efficiency Act of 1991: A Summary*, not dated.

²³³Weiner (1997).

It also provided funds for planning activities.

Title III of the Act, known as the Federal Transit Act Amendments of 1991,²³⁴ renamed the Urban Mass Transportation Act of 1964 the Federal Transit Act and redesignated UMTA the Federal Transit Administration (FTA).²³⁵ As shown in Table 2.3, mass transportation funding for FY 1992 through FY 1997 was divided between Section 3 discretionary allocations (49 U.S.C. Section 5309) and the Section 9 Formula program (49 U.S.C. Section 5307). The formula allocations were adjusted so Rail Modernization and New Starts would receive 40 percent each from guaranteed funding and Bus Capital projects 20 percent.²³⁶

²³⁴Federal Transit Act Amendments of 1991, Pub. L. No. 102-240, Title III, 105 Stat. 2087, § 3001 et seq., December 19, 1991.

²³⁵105 Stat. 2087, § 3004.

²³⁶105 Stat. 2089, § 3006, codified at 49 U.S.C. § 5309 (West 1997 & 2005). Of the \$1.9 billion the FTA in budget appropriations for FY 1997, the fixed guideway Rail Modernization and New Starts programs each received \$760 million. Bus and bus related projects were allocated only \$380 million.

Table 2.3. Federal Urban Mass Transit Authorizations, FY 1993-1997 (\$ Millions)

	1992	1993	1994	1995	1996	1997
Discretionary Capital Grants	\$1,342	2,030	2,050	2,050	2,050	2,900
Formula Block Grants	1,823	2,604	2,643	2,350.0	2,350.0	3,741
Rural	106	152	154	154	154	218
Transit Substitutions	160	165	0	0	0	0
R&D, Admin., Misc.	212	284	279	279	270	391
Total	3,643	5,235	5,125	5,125	5,125	7,250

Source: Extract from Weiner (1999), Table 12.3, pp. 176-7.

After protracted debate over ISTEA reauthorization, Congress passed the Transportation Equity Act for the 21st Century (TEA-21)²³⁷ covering the 1998-2003 fiscal years. TEA-21 retained the basic provisions of ISTEA, including the commitment to flexible funding. Title III of TEA-21, the Federal Transit Act of 1998,²³⁸ extended the transit program through the year 2003 and increased transit funding authorizations up to 70 percent above ISTEA appropriations. The bill authorized \$41 billion over the six-year period, and guaranteed that \$36 billion could be appropriated only for transit uses (see Table 2.4). The Rail Modernization program formula was also adjusted to increase the

²³⁷Transportation Equity Act for the 21st Century, Pub. L. 105-178, 112 Stat. 107, June 9, 1998, as amended by Title IX of Pub. L. 105-206, hereinafter TEA-21.

²³⁸Federal Transit Act of 1998, Pub. L. 105-178, Title III, 112 Stat. 338, § 3001 et seq., June 9, 1998.

proportion of new funds available for newer fixed-guideway systems.²³⁹ Under TEA-21 areas over 200,000 population are no longer eligible for the renamed Section 9 Urbanized Area Formula Grants for operating assistance, however, some preventative maintenance expenses can be funded through capital grants.²⁴⁰ The bill included a Job Access and Reverse commute (JARC) Program providing up to \$150 million annually to expand transportation services to welfare recipients and other low wage workers. It also established a Clean Fuels Formula Grant Program to assist transit operators in purchasing low-emissions buses and alternative fueling garage facilities.

Table 2.4. Federal Urban Mass Transit Authorizations, FY 1998-2003 (\$ Millions)

	1998	1999	2000	2001	2002	2003
Capital Investment	\$2,000	2,857	3,061	3,266	3,471	3,666
Formula Grants	2,500	3,000	3,098	3,495	3,742	3,989
Clean Fuels Program		100	100	100	100	100
JARC		150	150	150	150	150
R&D, Admin., Misc.	143	234	395	488	274	289
Total	4,643	6,341	6,810	7,274	7,737	8,194

Source: Data from U.S. Department of Transportation (1998).

²³⁹Over the operative period of TEA-21 (FY98-FY03), authorizations for Rail Modernization totaled \$6.592 billion, New Starts \$8.182 billion, and bus and bus-related projects \$3.546 billion (FTA 1999).

²⁴⁰TEA-21, section 3007 (amending 49 U.S.C. section 5307(b)). Areas under 200,000 population are eligible to receive operating assistance grants without prior limitations. *Id.* section 3027(b) (repealing 49 U.S.C. section 5336(d)). Block grants are now known as Formula Grants and discretionary grants are termed Capital Investment.

Congress recently passed the \$286.4 billion Safe, Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU),²⁴¹ providing \$52.6 billion in funding for various continuing public transportation programs through FY 2009. Title III, the Federal Public Transportation Act of 2005,²⁴² expands the present planning requirements to include consideration of urban growth patterns and creates a new Small Starts program to fund streetcar, trolley, and bus rapid transit projects costing under \$75 million (see Table 2.5). The Urbanized Area Formula Program is also retained, though transit agencies in previously eligible areas that have since grown beyond 200,000 in population may still receive some limited operating assistance.²⁴³

²⁴¹Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, P.L. 109-59, 119 Stat. 114, August 10, 2005, hereinafter SAFETEA-LU.

²⁴²SAFETEA-LU, §3001 et seq., 119 Stat. 1544.

²⁴³SAFETEA-LU, §3009(c)(2), 119 Stat. 1545.

Table 2.5. Federal Urban Mass Transit Authorizations, FY 2004-2009 (\$ Millions)

	2004	2005	2006	2007	2008	2009
Capital Investment Program	\$3,137.5	3,312.1	3,716.3	3,869.5	4,197.8	4,459.8
Urbanized Area Formula Program	3,964.0	4,123.9	4,671.7	4,860.3	5,268.1	5,596.6
Planning	73.0	72.4	95.0	99.0	107.0	113.5
Research	59.0	60.6	58.0	61.0	65.5	69.8
Admin.	75.5	77.4	82.0	85.0	92.5	98.5
Total	7,309.0	7,646.3	8,622.9	8,974.8	9,730.9	10,338.1

Source: Data from American Public Transportation Association (2005).

The Legacy of Federal Policies

Although post-war suburbanization was already well underway by the 1950s, the outpouring of federal and state dollars for highway construction following the 1956 Highway Act helped to literally pave the way to the suburbs. From the 1950s through the 1970s, the federal and state governments financed an extensive system of high speed intraurban and circumferential highways around most major cities. Policies that may have been intended to improve the economic prospects of urban central business districts by reducing traffic congestion and making them more accessible, ironically succeeded in opening up more peripheral land for development and accelerated the exodus of businesses and white and middle-class residents from downtown and innercity areas.

Federal housing policies also contributed to the transition by making it easier for middle income people (most of whom were white) to afford homes in the suburbs, while largely confining minorities to the inner city. As urban areas became more decentralized, new commercial and business centers began to develop in the exurban periphery, closer to suburban residences, further reducing the importance of the suburb-to-central city commute. Efforts to integrate the suburbs continued, but drew increasing resistance from white residents, and often unsympathetic responses from the courts. For instance, the Supreme Court in 1977 upheld the right of an all-white community to refuse to permit an integrated low and moderate income housing project to be built, ruling that there was no evidence of intentional discrimination even though the decision clearly had a discriminatory impact.²⁴⁴ Exclusionary zoning and other planning methods which have been upheld by the courts have further limited opportunities for low and moderate income and minority residents.²⁴⁵ While some states did begin to adopt legislation designed to ensure appropriate housing opportunities for all income groups these efforts have been slow to produce results.

Both the 1990 amendments to Clean Air Act and ISTEA emphasized the role transportation systems play in attaining federally mandated air quality standards. These

²⁴⁴Metropolitan Housing Development Corporation v. Village of Arlington Heights, 429 U.S. 252 (1977).

²⁴⁵Supreme Court decisions have made it increasingly difficult to challenge exclusionary policies in federal court. See e.g. Warth v. Seldin., 422 U.S. 490, 95 S.Ct. 2197, 45 L.Ed. 343 (1975); City of Eastlake v. Forest City Enterprises, Inc., 426 U.S. 668 (1976).

two pieces of federal legislation were among the most important landmarks in a decade-long shift of emphasis in regional transportation planning. The acts require new, detailed, accurate analyses of the potential impacts of transportation improvements on congestion, travel and land use.²⁴⁶ The strategies developed to help meet regional air quality standards affect public investments in the transportation network and public transit, which in turn influences future regional development.

Rather than encouraging more compact development in the metropolitan areas, federal transit subsidy policies have made it easier to live further outside central cities. In the 1980s and 1990s, subsidies did help to increase ridership in the face of declining central city populations, though between 1975 and 1980 an 25 percent increase in subsidies resulted in only a 13 percent increase in ridership.²⁴⁷ Much of that reflects the shift to suburban commuters.

Data from the American Public Transit Association show that between 1977 and 1995, the number of all unlinked transit trips rose from 7,286 million to 7,763 million, peaking in 1990 at 8,799 million (see Figure 2.3). However, the number of bus trips fell somewhat from 4,949 million to 4,848 million and the number of heavy rail trips dropped from 2,149 million to 2,033 million, though both experienced growth in the interim

²⁴⁶See e.g., 23 U.S.C.A. §§ 134(f)(4), 135(c)(14) (West 2002 & Supp. 2005).

²⁴⁷Jones (1985).

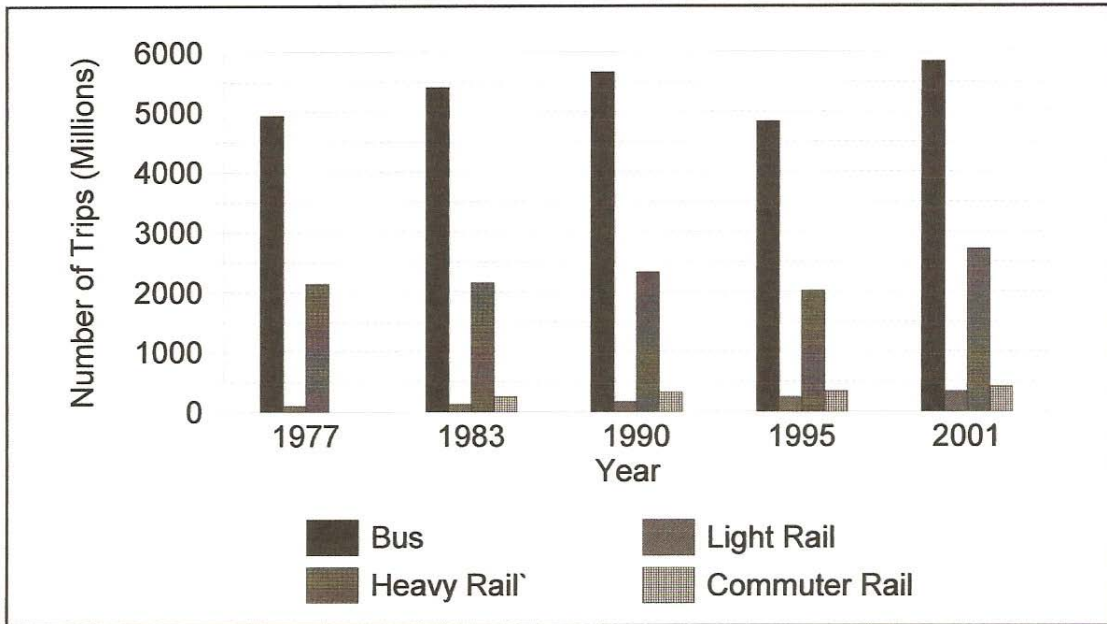
before declining. As a result, the proportion of transit trips made by bus declined from 67 percent to 63 percent and those by subway fell from 29 percent to 26 percent. On the other hand, the number of trips by light rail and commuter rail increased over the same period. Light rail trips rose dramatically from 103 million to 251 million annually, an increase from 1.4 percent to 3.2 percent. Between 1983 and 1995 annual commuter rail trips increased from 262 million to 344 million, or 4.4 percent of all transit trips.²⁴⁸ These shifts mirror recent trends in public transit investments which have emphasized new rail construction over bus operations, as discussed more fully in the previous chapter.

Since 1995, overall transit use has again grown, reaching 9,653 million in 2001. Bus trips reached 5,868 million, but now constitute just over 60 percent of transit usage. By contrast, commuter rail has grown steadily from 328 million trips in 1990 to 419 million in 2001. Light rail increased to 336 million trips over the same period and now makes up 3.5 percent of all trips. Heavy rail grew to 2,728 million trips, or 28 percent.²⁴⁹ In sum, while transit used remained relatively stable from the late 1970s through the mid-1990s, at between 7 ½ to 8 ½ million trips, the proportion of bus trips fell steadily. Though transit use appears to be on the upswing again across all modes, bus use continues to decline proportionately.

²⁴⁸APTA (1999).

²⁴⁹APTA (1999); APTA (2005).

Figure 2.3. Transit Trips by Mode, 1977-2001



Source: Data from American Public Transportation Association (1999, 2005).

From the early 1970s to 1990, the percentage of all trips made by transit, particularly buses, decreased. In 1969, 7.8 percent of all unlinked metropolitan trips were made by transit. Of these, 7.0 percent of all trips were made by bus and 0.8 percent were by rail transit. In 1983, transit made up only 2.3 percent of all trips, and this figure declined further to under 2 percent by 1990.²⁵⁰ From 1990 to 1995 the number of all trips

²⁵⁰Vincent, Keyes, and Reed (1994). In large urban areas with rail transit service the share of transit trips declined from 8.8 percent to 5.2 percent over this period.

taken in the U.S. increased by 24.5 percent but public transit use still accounted for only 1.8 percent of all trips made, shared between buses and streetcars (1.5 percent), subways (0.5 percent), and commuter rail (0.2 percent).²⁵¹ By 2001, the figure for all transit trips had dropped to just 1.6 percent.²⁵²

Two-thirds of all transit trips occur in urban areas, where 8.3 percent of all trips are by transit, the majority by bus (see Table 2.6). Bus trips account for about two-third of all transit trips in urban and suburban areas. Smaller cities and suburbs are next in terms of bus use. Urban areas also capture 85 percent of subway trips and over half of commuter rail trips; suburbs alone account for another one-third. There are three times as many subway trips as commuter train trips taken within urban areas, but in suburban areas the situation is reversed as train trips outnumber those on subways.

²⁵¹Hu and Young (1999).

²⁵²Hu & Reuscher (2004). Some of the apparent decline in transit use may be attributable to the fact that the 2001 NHTS reported a higher proportion of walk trips. The survey specifically targeted these trips, on the belief that they were being underreported in the previous surveys.

Table 2.6. Transit Mode Split by Urban Status, 1995 (Millions)

	Urban	Suburban	Rural	Second City	Town	All
Bus	2,766	671	22	697	120	4,318
	5.3%	0.7%	0.1%	1.1%	0.2%	1.5%
	64.1%	15.5%	0.5%	16.1%	2.8%	100%
Subway	1,199	152	1	58	14	1,427
	2.3%	0.2%	0.0%	0.1%	0.0%	0.5%
	84.9%	10.7%	0.1%	4.1%	1.0%	100%
Commuter Train	346	205	3	36	34	628
	0.7%	0.2%	0.0%	0.1%	0.1%	0.2%
	55.1%	32.6%	0.5%	5.7%	5.4%	100%
All Transit	4,311	1,028	26	791	168	6,373
	8.3%	1.1%	0.1%	1.3%	0.3%	2.2%
	67.6%	16.1%	0.4%	12.4%	2.6%	100%

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Congressional legislation has made air quality concerns, rather than mobility and accessibility considerations, the overriding factor in transportation planning.²⁵³ This places local and regional transportation planning agencies under considerable pressure to adopt strategies to reduce the growth of vehicle travel, particularly single occupant vehicle (SOV) trips. Increasing the use of public transit has been considered a major component of that effort, however, the evolution of a more polycentric urban form accompanied by significant demographic shifts in the racial and ethnic composition of transit patrons, in particular, makes it less likely that transit can accomplish that goal

²⁵³Garrett & Wachs (1996).

while at the same time serving those most in need of it. Current federal transportation spending policies, however, focus on increasing suburban to central city commuting.

In addition to encouraging capital expenditures, federal law favors fixed rail systems tailored to coax suburban commuters out of their vehicles over more flexible urban bus systems disproportionately relied on by transit dependent populations (see Text Box).²⁵⁴ Slightly more than 90 percent of the funds available under Section 9 Urbanized Area Formula Grants (42 U.S.C. § 5307) are reserved for urbanized areas over 200,000 in population.²⁵⁵ Of that share, approximately one third is apportioned based on the amount of fixed guideway service provided by the transit operator and the remaining two thirds based on bus service, despite the fact that approximately 95 percent of all transit service is provided by buses.²⁵⁶

²⁵⁴In addition to federal funding mechanisms, the states also contribute significantly to highway and transit finance. The State of California, for example, supplies funds to transit but does not allow funds collected from sales taxes in one county to be expended in another county, and within counties (with one exception) state law distributes transit funds based on the service area population only, not ridership. Since larger, more densely populated areas have a higher percentage of transit riders, the allocation favors smaller areas with low levels of transit ridership. The combined effect of these federal and state policies is that areas with low population, low density, and a large number of service miles receive a proportionately higher amount of transit funding per passenger than areas with higher population and densities. As a consequence, suburban systems tend to spend far more per transit rider than central city areas and generally can afford to operate newer buses over longer routes with fewer passengers. Taylor (1991).

²⁵⁵49 U.S.C. section 5336(a)(2) (West 1997 & Supp. 2005). A total of 9.32% of the budgeted funds are available to areas with a population of less than 200,000 and are distributed through state governors. The funds are apportioned based 50% on population and 50% on population density weighted by population. *Id.* section (a)(1).

²⁵⁶49 U.S.C. § 5336(b)&(c) (West 1197 & Supp. 2005). TEA-21 generally maintains these funding formulas. Urbanized areas formula grants now receive 91.23% of the allocation while non-urbanized areas receive 6.37%. Grants for individuals with disabilities receive the remaining 2.4%. 49 U.S.C. section

(continued...)

Thus federal transit subsidies favor expanding service area coverage, over increasing ridership. Nearly 60 percent of the formula funds allocated for fixed guideway systems are apportioned based on the number of miles covered by vehicles in service while close to 40 percent is allocated based merely on total track mileage.²⁵⁷ Less than 5 percent is allotted on the basis of how many passengers are actually carried and this is weighted both by distance traveled, and per passenger operating costs.²⁵⁸ In short, systems that cover larger areas and run more cars receive larger shares of federal subsidy almost entirely irrespective of the actual number of patrons served. The same is true for the 2/3 portion allocated on the basis of existing bus service. Only 9.2 percent of the amount available is apportioned based on the number of bus passenger miles traveled weighted by operating costs.²⁵⁹ Over 90 percent of these funds are distributed to individual urbanized areas by a formula weighted 50 percent based on miles of bus service, 25 percent on population, and 25 percent on population density.²⁶⁰

²⁵⁶(...continued)

5338(a)(2)(C)(iii). Over the operative period of TEA-21 (FY98-FY03), authorizations for Urbanized Area Formula grants (guaranteed and non-guaranteed) total \$18.033 billion (FTA 1999).

²⁵⁷49 U.S.C. § 5336(b)(2)(A) (West 1997 & Supp. 2005).

²⁵⁸49 U.S.C. § 5336(b)(2)(B) (West 1997 & Supp. 2005).

²⁵⁹49 U.S.C. § 5336(c)(2) (West 1997 & Supp. 2005).

²⁶⁰49 U.S.C. § 5336(c)(1) (West 1997 & Supp. 2005). Of the 90.8 percent, 73.39% is apportioned to urbanized areas with a population of at least 1,000,000 and 26.61% to urbanized areas with a population of between 200,000 and 999,999.

Block Grant Funding Formulas

100% ----- All Areas

9.32% ----- Urbanized areas under 200,000
 . 50 x population of area / population of all urbanized areas <200,000
 . 50 x population x inhabitants / sq. mile

90.68% ----- Urbanized areas over 200,000

33.29% ----- for fixed guideways

95.61%

. 60 x $\frac{\text{number of fixed guideway revenue vehicle miles}}{\text{total number of all fixed guideway revenue miles}}$

. 40 x $\frac{\text{number of fixed guideway route miles}}{\text{total number of all fixed guideway route miles}}$

4.39%

$\frac{\text{number of fixed guideway vehicle passenger miles x number of fixed guideway vehicle passenger miles per \$1 operating costs}}{\text{total number of all fixed guideway vehicle passenger miles x total number of all fixed guideway vehicle passenger miles per \$1 of total operating costs}}$

66.71% ----- for bus service

90.8%

73.39% ----- urban areas over 1,000,000

. 50 x $\frac{\text{total bus revenue vehicle miles serving urban area}}{\text{total of all bus revenue vehicle miles serving all urban areas over 1,000,000}}$

. 25 x $\frac{\text{population in urban area}}{\text{total population of all urban areas over 1,000,000}}$

Block Grant Formulas (con t)

26.61% ----- urban areas between 200,000 999,999

. 50 x $\frac{\text{bus revenue vehicles miles in urban area}}{\text{total bus revenue vehicle miles for all urban areas between 200,000 999,999}}$

. 25 x $\frac{\text{population in urban area}}{\text{total population for all urban areas between 200,000 999,999}}$

. 25 population x factor for # inhabitants / sq. mile

9.2% ---- urban areas at least 200,000

$\frac{\text{number of bus passenger miles traveled x number of bus passengers per \$1 operating expenses}}{\text{total number of all bus passenger miles traveled in urban areas of at least 200,000 x total number of bus passengers in all urban areas of at least 200,000 per \$1 of all operating expenses}}$

Source: 49 U.S.C. Section 5336.

With respect to rail transit development, this shift in policy emphasis has been quite dramatic. Between 1983 and 1994, total revenue vehicle miles of bus service nationwide increased 10.7 percent; during this same period subway and elevated rail transit service increased 28.8 percent, commuter rail service increased 31.6 percent, and light rail (streetcar) service increased 108.1 percent.²⁶¹ In 1993, buses carried over twice as many passengers (5.4 billion) as all rail transit modes combined (2.6 billion),²⁶² but total expenditures on bus and rail transit (most of which came from government subsidies) were approximately equal (\$10.1 billion).²⁶³ Since they serve fewer patrons who make longer commutes, on average, than existing bus lines, the effective subsidy per passenger is usually much higher for rail passengers compared to bus passengers. At the same time, some transit operators have increased fares and/or reduced service on older inner city bus lines serving predominately poor and minority communities despite the fact that research has consistently shown that the poor actually require lower subsidies per rider than do wealthier patrons.²⁶⁴

Despite the emphasis placed on transit to solve air quality problems, the average number of miles driven in private vehicles, which has a direct impact on the amount of

²⁶¹TCRP (1997).

²⁶²APTA (1998).

²⁶³TCRP (1997).

²⁶⁴Hodge (1988); Pucher *et al.* (1981); Pucher (1981); Pucher (1982); Pucher (1983); Taylor *et al.* (1995); Luhrsen and Taylor (1997); Cervero and Wachs (1980).

pollutants created continues to grow.²⁶⁵ Not only has trip length increased but the time spent en route, another determinant of emissions, has also grown.²⁶⁶ Inasmuch as national transportation policy is increasingly being driven by air quality concerns, these developments are significant. Though policy makers tout public transit as an alternative to automobile use, transit trips have remained only about 2 percent of total miles traveled per person.

Conclusion

This chapter has reviewed the evolution of American transit from a privately owned and operated, albeit financially marginal, entrepreneurial enterprise to a largely government-supported social service catering to a large number of transit dependents, most of whom are poor and minority, and a small but increasingly important number of wealthier suburban commuters. We have seen how federal and state transportation and housing policies have helped to create the conditions which have led to this bifurcation in transit ridership. It has also documented how Congressional transit policy has evolved from indifference, to limited public assistance for public acquisition of transit systems, to

²⁶⁵Between 1990 and 1995 vehicle miles traveled grew from 30.8 miles to 35.3 miles per day, representing an increase from 88.4 percent to 92.1 percent of all miles traveled. Hu & Young, (1999), p. 21, Table 11.

²⁶⁶In 1990, drivers spent an average of 71.9 minutes in their automobiles during a typical day. In 1995, by contrast, they logged 73.1 minutes driving to and from their destinations. Hu & Young (1999), p.26, Table 14.

substantial government support for transit development, particularly rail, as part of a multimodal policy approach, largely designed to reduce automobile dependence and at odds with the changed nature of transit patronage. Given the demographics of urban bus riders compared to suburban commuters (see Chapter Three) policies that generate higher transit subsidies for suburban riders, and lower service levels for bus riders, can be seen to represent a form of discrimination against the urban poor. Just how the concept of discrimination has changed and evolved with respect to mass transit over the years, is addressed in the following chapter.

CHAPTER THREE: DISCRIMINATION IN PUBLIC TRANSPORTATION

The United States has a long history of segregation in public transportation. Even before the Civil War, the term "Jim Crow" was being applied to designate separate accommodations for nonwhites, though the pattern of segregation was somewhat uneven from place to place. The practice was challenged by white abolitionists in the 1840s who managed to undermine it somewhat before the outbreak of hostilities.¹

Most Northern and some Southern cities typically had fairly sizable populations of free African-Americans, some skilled tradesmen but mostly low-paid laborers. Though there appears to be little direct evidence, their use of public transportation was probably similar to other low income whites. In Southern cities, both free blacks and urban slaves were often subjected to severe legal restrictions that enforced segregation and forbade

¹Barnes (1983).

equal access to public accommodations, including the railroads.² Slaves were often put to work as firemen, brakemen, and railroad laborers. In the North and West segregation was less formal, though the railroads employed few blacks.³

Segregation in Public Transportation

Initially, the practice of separating passengers by race was instituted by the railroads. Since railroads operated under public franchise they were governed by state law, however, they were permitted to adopt reasonable regulations for the safety, comfort and convenience of their passengers. Railroads could legally charge different fares for different levels of service. Paying passengers who were refused service, for reasons other than their conduct, or were subjected to lesser accommodations than they were otherwise entitled, could sue the company for damages. Within individual fare classes, passengers could be separated, by sex or even by race, provided the accommodations offered were substantially equal in character to those offered other passengers holding the same class ticket.⁴ Thus, under the equal-but-separate⁵ standard as it developed at common law,

²Chudacoff & Smith (2000), p. 72-3.

³Tye (2000).

⁴West Chester and Philadelphia Railroad Company v. Miles., 55 Pa.209 (1867); Chicago and North Western Railroad Company v. Williams, 55 Ill. 185 (1870); Thompson v. Baltimore City Passenger Railway Company, 23 Fed. Cases 1023 (C.C.D. Md., 1870); Fields v. Baltimore City Passenger Railway
(continued...)

railroads could not refuse black passengers service solely on account of their race, but could legally separate them from other passengers.

The typical, but not necessarily universal, practice for railroads was to provide both second class, which permitted smoking, and first class cars, where smoking was prohibited. Lower class whites and nonwhites would be expected to occupy second class seats, even when they were charged first class fares. Often, a separate first class car was set aside for unaccompanied women and those with gentlemen escorts. Where there was only the one first class car, single white men might be permitted in the ladies car if room was available but generally they rode in the second class smoking car located closer to the engine. Outside of the ladies car, racial separation was not always strictly enforced as white males and some less respectable women often mixed with nonwhites in the smoking sections. At times, there were so-called colored cars where nonwhites of both sexes were expected to ride or a special colored section was designated in the smoking car, separated by a partition. Poor white males or drunkards might also be shown to the colored section. Interestingly, racial segregation often did not extend to sleeper cars.⁶

⁴(...continued)

Company, 9 Fed. Cases 11 (C.C.D. Md., 1871).

⁵This was the usual form of the expression at the time, which as read seems to emphasize equality over separation. After the Civil War, it appears that it was more common to speak of this as the separate but equal doctrine, which tends to forefront its role in enforcing segregation, with equality as more of an afterthought.

⁶Lofgren (1987), especially Chapter 1.

Several state courts of the period and at least one decision of the U.S. Supreme Court cast some doubt on the validity of the equal but separate doctrine, but the state court opinions proved to have little influence and the federal case turned on the particularities of the railroad company's congressional charter to operate in the District of Columbia.⁷ As it stood the law seemed to permit railroads and other forms of public conveyance to segregate passengers by race, but not necessarily to refuse service or provide inferior service, at least in theory. In practice, nonwhites generally purchased second class tickets, or were only sold second class tickets, and thereby separated from most first class passengers, particularly women. Needless to say, the second class sections did not offer the same quality of accommodation as the ladies car; they were dirtier, noisier and fouled with tobacco smoke and spit.

The Civil War Amendments

After the Civil War, Republicans in control of Congress determined to secure by legislation those principles of freedom and equality for which the Union forces had

⁷Jennings v. Third Avenue Railroad Company (Brooklyn, N.Y. 1855); People v. Pond (San Francisco, 1863); Cogler v. North Western Union Packet Company, 37 Iowa 145 (1873); Washington, Alexandria, and Georgetown Railroad Company v. Brown, 84 U.S. 445; 21 L. Ed. 675, 17 W all. 445 (1873). For a discussion of these cases see Lofgren (1987), at pp. 118-124.

fought.⁸ The apparent conflict between increasing the authority of the federal government to combat discrimination and preserving the political integrity of the states, formed the heart of the debates over the three amendments known collectively as the Civil War Amendments. Those amendments and the various pieces of legislation founded on them, provide the foundation for modern civil rights jurisprudence. These amendments, adopted between 1865 and 1870, expressed broad principles of justice derived from antebellum debates over slavery but were noticeably vague on the specific rights that they purported to guarantee.⁹ Nevertheless, they formed the basis for legal effort to dismantled the Jim Crow system. Although the issues involved in contemporary struggles for transit justice no longer involve quite the same considerations that prompted the post bellum Congress to enact Civil War Amendments, the legislators intent, as well as the manner in which the Supreme Court chose to interpret them, are critical to understanding the matters addressed in the succeeding chapters, and thus merit some extended discussion.

In the years immediately following the end of the War, former Confederate states were governed by provisional legislatures made up largely of white Southern loyalists.

⁸Nelson (1988). There has been a healthy debate in recent years over judicially *narrow* versus *expansive* readings of this legislation, in particular the Fourteenth Amendment. Various doctrines, such as fundamental rights, original intent, or states rights, have been employed to bolster one interpretation or the other. That these issues have provoked so much controversy is perhaps indicative of the fact that questions of civil rights and social justice remain quite open, even today.

⁹Nelson (1988). Professor Nelson argues that the supporters of the amendments relied on a combination of rhetorical arguments reflecting principles derived from higher law, the nature of republican government, and concepts of liberty secured by local self government as part of a federal system. The main goal was to enact moral principles into law while avoiding specific questions that could divide supporters.

Although the Thirteenth Amendment to the Constitution, adopted by the Union states in 1865 banned slavery or involuntary servitude within the United States and abolished the so-called Slave Codes that had regulated the treatment of slaves in the South, many southern state governments adopted new legislation, known as Black Codes, designed to retain as much of the traditional social structure as possible, which oppressed freed blacks by restricting their movements and rights to own property, punishing them as vagrants, or requiring them to hire themselves out to a white patron.¹⁰ Customary separation of the races was also enacted into law. States passing segregation statutes covering rail lines included Florida (1865), Mississippi (1865), and Texas (1866). Northern ire grew as Southerners were also accused of freely attacking and beating freedmen, white northerners, and Union sympathizers, as well as persecuting them in their courts.

In reliance on the Thirteenth Amendment and to protect the rights of former slaves and Northerners in the South and, in particular, in response to the impact of the Black Codes designed to restore and strengthen antebellum segregationist practices, Congress passed the Civil Rights Act of 1866 which attempted to spell out various rights possessed by freedmen and others. In addition to conferring citizenship on all African Americans,¹¹ Section 1 of the proposed act stated:

¹⁰Berger (1989).

¹¹This was intended to overturn the Supreme Court's decision in the *Dred Scott* case declaring that the Constitution had not conferred citizenship on any African slaves, even if they resided in free territories.

That there shall be no discrimination in civil rights or immunities . . . on account of race . . . but the inhabitants of every race . . . shall have the same right to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, and shall be subject to like punishments . . . and to none other.¹²

The Act was directed solely to making unlawful distinctions based on race, and despite the broad language protecting civil rights and immunities from discriminatory treatment, the section went on to list a number of specific rights which seemed to qualify the broader grant of protection. These rights at least, to make contracts, buy and sell property, to testify at trial, and the right to due process of law and equal treatment, were considered fundamental rights possessed by all free individuals that deserved protection. Nevertheless, opponents, including Moderate Republicans of the day argued that the references to banning discrimination were too broad and would be subject to a *latitudinarian* construction.¹³ As a result, the language forbidding all discrimination in civil rights or immunities . . . on account of race, color, or previous condition of slavery

¹²Act of April 9, 1866, c. 31, 14 Stat. 27.

¹³A liberal or expansive reading.

was removed from the final bill.¹⁴

President Andrew Johnson, a Southerner, opposed the bill. Though he had little regard for wealthy Southern elites who had led the rebellion, he believed he could unite the country by appealing to Northerners and poor Southern whites, at the expense of protecting the civil rights of freed blacks. But, the increasingly brutal violence directed against freedmen in the South solidified opposition to his policies among both Radical and Moderate Republicans in Congress.¹⁵ The 1866 Act was passed over President Johnson's veto, however, there remained some doubt whether the reach of the Congressional enforcement clause of the Thirteenth Amendment was indeed broad enough to authorize this legislation, since the kinds of abuses it was aimed against did not, strictly speaking, enslave anyone or subject any person to forced servitude. Opponents argued that the states, not the federal government, retained power to define and enforce civil rights. Moreover, Republicans worried that as mere legislation, it could be amended or even repealed by future Congressional acts, particularly if the balance of power in Congress were to shift back to the Democratic side with the readmission of the rebellious Southern states.¹⁶

¹⁴Lofgren (1987), at 62.

¹⁵Nelson (1988).

¹⁶With the passage the Fourteenth Amendment, Section 2 of Article I of the Constitution, providing that slave would only be counted as 3/5 of a person for purposes of Congressional representation were nullified and the Southern states would therefore gain seats in Congress, thus threatening Republican control.

To resolve the issue, Congress passed the Fourteenth Amendment, which as finally adopted in 1866 and ratified by the required number of states in July 1868, reads in part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.¹⁷

Note that unlike the initial version of the 1866 Civil Rights Act, the Amendment does not directly bar discrimination, although at least one early draft of the amendment had attempted to do so. Had it done so, there might have been less doubt that Jim Crow laws covering public accommodations would be unconstitutional. Nor did it specifically guarantee all persons either civil or political rights, or even equal treatment without regard to their race, color, or previous condition of servitude, though again, all these formulations were presented and debated. In its final form it was arguably broader in scope than the 1866 Act, but it was far from unambiguous. The first clause of sentence

¹⁷Fourteenth Amendment, section 1.

two, protecting privileges and immunities, of *citizens* was considered the main operative portion of the amendment, but there was no attempt made to define precisely what those rights were. The last two clauses, which applied to all *persons*, were also little debated and generally considered fairly minor. The phrase *due process* was lifted from Article V of the Constitution protecting against arbitrary federal legislation and could generally have been understood to require that all state laws also be procedurally fair, but not a necessarily granting any substantive rights. The phrase *equal protection* likewise did not imply a grant of any substantive rights but only guaranteed that should a state adopt a rule of law, it had to apply it equally to all similarly situated persons.¹⁸ The promise of *equal protection* would become the main operative provisions, but as discussed below, was vague and did not guarantee that the law would be *color-blind* or that blacks and whites would receive the *identical* treatment under law.

Adoption of the Fourteenth Amendment did not settle exactly what it was meant to accomplish, or the scope of Congressional power to act to enforce its guarantees. Radical supporters viewed the Amendment as protecting against infringement of everyone's fundamental rights. This is the position taken by a number of Constitutional scholars in arguing that the amendment made the Bill of Rights binding on the states.¹⁹ On the other hand, others have argued that the Moderates' position prevailed that the

¹⁸Nelson (1988).

¹⁹See e.g. tenBroek (1951); Antieau (1981); Baer (1983); Curtis (1986); Graham (1968).

scope of the Fourteenth Amendment was limited to remedying those abuses addressed in the Civil Rights Act of 1866, and had no effect on common practices at the time such as segregated schools, or laws barring blacks from voting or sitting on juries, nor prohibitions on racial intermarriage.²⁰ Those taking the position that the Fourteenth Amendment was merely intended to overturn the Black Codes and never was intended to incorporate any broader protections such as contained in the Bill of Rights point to historical evidence of intense racism in the North as proof that Moderate Republicans would never have supported a measure designed to guarantee social or political equality to black Americans.²¹

While the Fourteenth Amendment was clearly designed to end discrimination because of race, color, or previous condition of servitude the language did not provide any clear guide to the resolution of any number of important issues. While this vagueness may have been a virtue in persuading members of Congress to support and the various state legislatures to ratify the amendment,²² it also left it open to widely varying interpretations. One important issue, whether the Fourteenth Amendment granted

²⁰Bickel (1955); Bickel (1962); Fairman (1949); Maltz, (1984); Maltz (1985). Bickel, a law clerk to Justice Frankfurter during the arguments in *Brown v. Board of Education*, nevertheless concluded that the authors of the Amendment contemplated that later courts or the Congress itself had power under Section 5 to abolish segregation.

²¹Bickel (1962).

²²Nelson (1988), pp. 64-90. Nelson suggests that supporters of the Amendment drew on principles of higher law as well as ideas about the rights of citizens in a free republic that had been taken from antebellum antislavery rhetoric.

Congress the power to enforce voting rights, was later resolved with adoption in 1870 of the Fifteenth Amendment which guaranteed the right to vote.

Southern states were required to adopt the Fourteenth Amendment before they could rejoin the Union. To assure compliance with its terms, Congress in 1867 placed much of the Southern territory under military jurisdiction. Under federal protection, former slaves and poor whites enjoyed greater privileges, and many served in elected state and local offices. Many Southern whites, however, chafed under Union rule, and tried to reimpose social controls over the black population, while Northerners showed little concern for advancing civil or political rights of the much smaller number of blacks in the North.²³ Still, despite the lack of significant social progress, the period of Reconstruction from 1867 to 1877, was one of substantial rebuilding and growth in both Southern and Northern cities.

The Era of Radical Reconstruction

The end of the Civil War brought major changes to urban areas. Black migration from the rural South to Southern and Northern urban centers began shortly after the Civil War and increased steadily through the end of the century. As the upper- and middle-

²³Packard (2002).

classes increasingly moved out of the central city, rural poor and working class immigrants and former slaves streamed in, transforming the old walking city into the urban core of the new metropolis.²⁴ Disparities in wealth between rich and poor were soon reflected in the spatial organization of urban areas. Despite transit improvements, most laborers still walked, which confined them to living within a short distance of the industrial core. With the average wage for unskilled labor around one dollar a day, only more affluent individuals could afford to take trains or horse-drawn cars and live in newly developing suburbs that began to appear shortly after the Civil War, spreading radially from central downtowns along established travel routes.²⁵

Where at first, only wealthy elites could afford to live in the outskirts and commute to work in the city, after about 1870, the proliferation of horse-drawn streetcars and later electric trolleys allowed middle class urbanites, white collar workers [and] even some skilled tradesmen to join wealthy merchants and professionals in escaping the crowding, crime and dirt of the urban cores.²⁶ Small commercial establishments typically lined the routes with middle class housing located within a few blocks walking distance of the line. Cities began to take on the now familiar patterns of concentric zones distinguished by wealth of residences. While some attribute the urban expansion of the

²⁴Chudacoff & Smith (2000), p. 118.

²⁵Chudacoff & Smith (2000), p. 57.

²⁶Mohl (1985), Chudacoff & Smith (2000), p. 91.

period to improvements in transportation, urban historian Eric Monkkonen notes that though the average commute distance did increase, it was mainly due to the greater supply of housing and the shorter workday.²⁷

In the postbellum period, African Americans faced not only continuing segregation on trains and waterways, but suffered from the expansion of Jim Crow practices on streetcars and later electric railways. The streetcars in federally-controlled New Orleans, with its more racially mixed population and greater tolerance at least early in the postbellum period, were integrated following the Civil War, but segregation was practiced in other Southern cities throughout Reconstruction and well into the 20th century.²⁸ Though few streetcars in Northern cities were officially segregated, the fact that the vast majority of urban blacks were poor combined with the streetcar companies tendency to extend service into growing middle class white suburban communities, suggests a high degree of segregation in practice at this time.²⁹

Blacks sued to stop the practice of segregating public transportation in Louisville in 1870 and won in federal court. After a suit in Charleston, South Carolina, local military commanders abolished the practice. During the period of Reconstruction, some

²⁷Monkkonen (1988), p. 161.

²⁸Lofgren (1987), especially Chapter 1.

²⁹Chudacoff & Smith (2000), p. 89.

radical legislatures in the South adopted various bills to guarantee equal civil and political rights for blacks and whites. Between 1868 and 1873, state constitutional provisions forbidding infringement on the right of citizens to travel on public accommodations were adopted in Mississippi, South Carolina, Georgia, Florida, Louisiana, Texas and Arkansas. Nevertheless, they were rarely enforced, and when they were they faced judicial hostility.³⁰ On the other hand, in 1870, Tennessee, a border state passed a law requiring that black and white railroad passengers be separated. Though they could be denied seats as passengers, many African Americans found work with the railroad companies. About this time, George Pullman began expanding his railroad sleeper car business, employing ex-slaves as attendants. The black Pullman Porters would not only eventually become prominent in the U.S. labor movement, but also play a significant role in the civil rights struggle.³¹ Blacks could not ride in Pullman cars, however, and were also excluded from chair and dining cars.

In 1869, Louisiana adopted an equal accommodations act, based on the state's 1868 Constitution, barring common carriers from making any rules or regulations that discriminated on account of race or color. When a black woman passenger sued a

³⁰Barnes (1983), p. 3.

³¹Tye (2004). For example, in later years, A. Phillip Randolph, President of the Brotherhood of Sleeping Car Porters, organized a threatened March on Washington D.C. in 1941 that forced President Roosevelt to issue an Executive Order opening up defense industry jobs to African-Americans. Randolph also worked tirelessly to integrate the labor unions and the military and helped to organize the 1963 March on Washington at which Dr. King delivered his "I Have a Dream" speech.

steamship company after being denied space in the vessel's ladies cabin, the Louisiana state supreme court granted relief, in part on the Fourteenth Amendment, but relying principally on state law. The decision was appealed to the U.S. Supreme Court, where the issue shifted to whether the Louisiana law imposed an unreasonable burden on interstate commerce. The Court focused on the impact of applying different and potentially conflicting state rules to common carriers as they crossed state borders. Though Congress had not legislated positively either way on the question of racial segregation on steamships, the majority held in *Hall v. DeCuir* that Congressional inaction amounted to an endorsement of the common law permitting carriers to segregate passengers.³²

Judicial interpretation of the Fourteenth Amendment weakened Congress's ability to bar race discrimination. In the *Slaughter-House Cases* the Supreme Court narrowly construed the "privileges and immunities" clause of the Fourteenth Amendment to guarantee only rights that arose on the basis of United States citizenship, not state citizenship.³³ Those rights, Justice Miller wrote, were limited to such matters as

³²Hall v. DeCuir, 95 U.S. 485, 24 L.Ed. 547, 5 Otto 485 (1878).

³³The Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873). The cases had nothing to do with racial discrimination. New Orleans officials had passed a law setting up a private corporation with a monopoly for slaughtering livestock within the city limits. All butchers were required to use the facilities and to pay a fee for use to the corporation. Excluded butchers took their case to the federal courts arguing that the law prohibited them from pursuing their livelihood in violation of the Thirteenth and Fourteenth Amendments. The Supreme Court held that the Thirteenth Amendment was designed to end slavery only, not to prohibit forms of state economic legislation. The Fourteenth Amendment's Equal Protection and Due Process clauses were also found unavailing since they dealt with racial discrimination against former slaves
(continued...)

assembling and petitioning the federal government, thus eviscerating much of the potential force of the amendment.³⁴ Congressional action, should it come, would have to be in furtherance of protecting rights under either the Due Process or Equal Protection clauses, which had been only little debated during the drafting process.

White Southerners continued to resist federal control. President U.S. Grant, elected in 1868, showed little enthusiasm for federal action to protect civil rights in the South. His successor, Rutherford B. Hayes, who lost the popular vote in the disputed election of 1876, secured the presidency in the Electoral College after promising Southern Democrats to remove federal troops from the South and restore government power to white legislatures who were free to reassert control over their black populations. The end of Reconstruction in 1877 meant that there would be little if any federal pressure to change Jim Crow. Indeed, during the next period of transit development, southern segregationist laws and practices would gradually become commonplace.³⁵

³³(...continued)
only.

³⁴Nelson (1988), pp. 156-60.

³⁵Woodward (1966), especially Chapter 3.

The Heyday of Jim Crow

While the period from 1880 to 1920 marked the Golden Age of the transit industry, it also represented a time of growing social hostility toward African Americans, particularly in the South, which led to the increasingly regular practice of separating whites and nonwhites not just on public transportation but in nearly every aspect of Southern life. As Woodward notes, however, even after the start of the period of Redemption begun by the Compromise of 1877, racial segregation in the South was inconsistent. In many cities, blacks and whites rode trains and streetcars freely.³⁶ Railroads and steamboats tended to be more segregated than streetcars, and segregation also tended to be more prevalent in the deep South than in border states or the North.

The expansion of Jim Crow laws proceeded by and large with judicial indifference. To enforce the protections of the Thirteenth and Fourteenth Amendments in all areas of the country, Congress had adopted the Civil Rights Act of 1875. It provided in part:

That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land

³⁶Woodward (1966), pp. 33-34.

or water, theatres, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.³⁷

The Supreme Court, however, eventually struck much of that law down in a series of consolidated decisions known as the *Civil Rights Cases* on the basis that Congress had exceeded its authority.³⁸ One of those actions sought to recover damages for the alleged refusal of the conductor of the Memphis & Charleston R.R. Company to allow a man's wife to ride in the ladies car because she was of African descent. The 1875 Act guaranteed all persons equal enjoyment of public conveyances on land or water, language which, if enforced, might well have prohibited racially separate accommodations in public transportation.³⁹ But, the Court declared that the Fourteenth Amendment only prohibited discrimination by the states not acts done by *private citizens* where the state was not involved, and while the Thirteenth Amendment did cover private conduct, it only authorized Congress to legislate against the *badges and incidents of slavery*, not mere discriminations on account of race or color. Justice Harlan, in a famous dissenting opinion, accused the majority of granting less protection to newly freed

³⁷Civil Rights Act of 1875, 18 Stat. 335, §1.

³⁸The Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835 (1883).

³⁹Act of 1 March 1875, 18 Stat. 335, 336.

slaves than it once had to their masters' property rights in them, and of effectively denying to Congress the power to enforce the citizenship rights of black Americans.⁴⁰ Unfortunately, the net effect of these decisions was to ratify existing private segregationist transportation practices.

If federal power did not extend to purely private discrimination, states were also free to *require* segregation on common carriers so long as they were operating wholly *within* the state. As white Southern loyalists, or Redeemers, wrested political power in former Confederate states away from Northern carpetbaggers and freed slaves, they introduced legislation in several states repealing existing civil rights laws and compelling racial segregation on public transportation in both first class and second class. Tennessee mandated separate railroad cars for whites and blacks in 1881. Other states passing Jim Crow laws around this time included Florida (1887), Mississippi (1888), and Texas (1889).⁴¹ In *L.N.O. & T.R. Co. v. Mississippi*, the U.S. Supreme Court affirmed that Mississippi's law subjecting railroads to criminal liability for failing to provide separate cars was valid with regard to travel inside the state, so long as the accommodations were equal and the law was not designed for oppression. The dissent, again authored by Justice Harlan, argued that despite its reversed factual situation, the Court's earlier

⁴⁰Justice Harlan was referring to the case of *Dred Scott v. Sandford*, 60, U.S. 393, 15 L.Ed. 691 (1857), which ruled that freed slaves were not citizens and the Missouri Compromise prohibiting slavery in federal territories was unconstitutional as beyond the powers of Congress to enact. The decision was widely vilified in the North and public reaction helped to elect Abraham Lincoln to the presidency.

⁴¹Barnes (1983), p. 7.

decision in *Hall v. DeCuir* should control, since even railroads traveling between states would have to modify their trains to comply upon entering Mississippi, which would burden interstate commerce. The majority believed, however, that was an issue for Congress to decide.⁴² In response to the ruling that local laws could be applied to intrastate riders even on interstate railways, Louisiana, Alabama, Georgia, Kentucky, Tennessee, and Arkansas all adopted Jim Crow laws.⁴³

Southerners quickly latched on to the notion that the dictates of the Fourteenth Amendment could be satisfied by providing equal, but *separate*, treatment for whites and blacks. Thus a host of public accommodations and services were legally segregated in the post-Reconstruction period with little concern for whether separate facilities were or were not in fact equal. The Supreme Court accepted this interpretation of equal protection most infamously in *Plessy v. Ferguson*,⁴⁴ a Fourteenth Amendment case directly involving public transportation. The Court ruled that maintaining separate train compartments for whites and blacks did not violate the Constitution, thereby validating widespread practices of forced segregation in both the South and North. The roots of the *Plessy* case lay in the Supreme Court's earlier interpretation of the Civil War

⁴²*L., N.O. & T.R. Co., v. Mississippi*, 133 U.S. 537, 10 S.Ct. 348, 33 L.Ed. 784 (1890). The Court opined: Obviously whether interstate passengers of one race should, in any portion of their journey, be compelled to share their cabin accommodations with passengers of another race, was a question of interstate commerce, and to be determined by Congress alone. *Id.* at 590-91.

⁴³Barnes (1983), p. 8.

⁴⁴*Plessy v. Ferguson*, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed 256 (1896).

Amendments in the *Civil Rights Cases* that segregation did not connote inferiority.

The *Plessy* case challenged Louisiana's 1890 Separate Car Act,⁴⁵ which mandated all railway companies operating within the state (but not streetcars companies) maintain equal but separate railway carriages for whites and non-whites. Railroad personnel were required to assign passengers to coaches based on their race and faced up to \$25 in fines or twenty days in the parish prison for making incorrect assignments, as did any passenger who refused to accept his or her assignment. Stiffer fines and penalties awaited any railroad that refused to comply with the act. Carriers were, however, immune from suit for refusing to carry a noncomplying passenger. The ban against occupying a coach intended for the opposite race did not, however, apply to nurses attending children of the other race.

A group of prominent Creole residents of New Orleans arranged a challenge to the law apparently with the tacit support of the East Louisiana Railway. Homer Plessy, a light skinned man 1/8 African by blood, purchased a ticket and took a seat in a whites-only coach, refusing to comply with the conductor's order to move. Plessy was ejected from the coach, arrested and imprisoned. When the trial court refused to accept his argument that he was entitled to every recognition, right, privilege and immunity secured to the citizens of the white race by its Constitution, his lawyer petitioned the Louisiana

⁴⁵Laws of Louisiana, 1890, at 152-54.

supreme court for a writ prohibiting the trial court from proceeding with the case.⁴⁶ The state supreme court ruled that there were no constitutional infirmities in the Separate Car Act and refused to halt the trial. With his state remedies properly exhausted, Plessy petitioned for a hearing in the U.S. Supreme Court, asking it to rule on the validity of the prosecution under the Thirteenth and Fourteenth Amendments.⁴⁷

Before the U.S. Supreme Court, Plessy's attorneys argued that the Fourteenth Amendment was intended to protect the colored race from onerous disabilities, and burdens and curtailing rights in the pursuit of life, liberty and property to such an extent that their freedom was of little value.⁴⁸ The issue thus presented was simply whether the Constitution forbade state-enforced racial classifications. Plessy's attorneys argued that it did and that the Louisiana law was unconstitutional because it established an invidious classification scheme forbidden by the Thirteenth Amendment's ban on badges of servitude and the Fourteenth Amendment's protections for the privileges and immunities of U.S. citizens. They also claimed that the law violated the Equal Protection and Due Process clauses of the Fourteenth Amendment.⁴⁹

⁴⁶This extraordinary relief was available to Plessy as Louisiana law did not permit appeals from minor criminal charges.

⁴⁷Lofgren (1987).

⁴⁸*Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896).

⁴⁹Lofgren (1987), p. 49.

The Supreme Court ruled that merely passing a law based on color did not create any undue burdens nor imply that African citizens were inferior to whites. The majority opinion by Justice Brown, distinguished between the absolute equality before the law guaranteed by the Fourteenth Amendment and social equality that could not be legislated. Noting the widespread acceptance of segregated schools in both the North and the South, and numerous state laws against racial intermarriage, the Court held that Louisiana's law was reasonably based on the usages, customs, and traditions of the people and was necessary for the preservation of the public peace.

In a sharply worded dissent, Justice Harlan insisted that the Thirteenth Amendment struck down *all* incidents of slavery and guaranteed protection from *all* laws implying inferiority. He could find no difference between a white and black person choosing to sit together in a train car, which was prohibited, and an earlier Court ruling mandating racial integration in jury boxes.⁵⁰ Harlan prophesied that the case would be seen as heinous a decision as the *Dred Scott* case had become. While the case failed to end segregation, its backers were not entirely disheartened. Given the climate of the times, the concept of *equal but separate* was not entirely anathema to African Americans since it required equality, if not identity, of treatment and could be used to force public carriers to upgrade service to black patrons.

⁵⁰*Strauder v. West Virginia*, 100 U.S. 303, 25 L.Ed. 664 (1879).

Nevertheless, now backed by the Supreme Court, Southern states vastly increased the reach of Jim Crow.⁵¹ After *Plessy*, there were no more mixed race second class railroad cars, at least officially, as separate cars were mandated for each race. In practice, the smoking car became the only place blacks were permitted, and it was never equal to the accommodations provided whites.⁵² As African Americans migrated to northern cities in response to poverty and prejudice in large numbers in the late 19th century, Northern attitudes against race-mixing increased. The *L., N.O. & T.R.* and *Plessy* cases had only applied to intrastate passengers but in order to simplify their operations many companies just segregated all passengers, both local and interstate, a practice that the Supreme Court ruled was reasonable.⁵³

These decisions opened the door to an expansion of Jim Crow practices throughout the South on interurbans and street railways. What had been informal practices were now backed by force of law. North Carolina and Virginia segregated streetcars in 1901. In 1902, Louisiana included street cars in the ban as did the states of Arkansas, South Carolina, and Tennessee (1903), Mississippi and Maryland (1904),

⁵¹Barnes (1983). South Carolina, which had initially resisted Jim Crow, segregated its rail cars in 1898. Between then and 1908, the states of Maryland, Virginia, North Carolina, and Oklahoma also adopted Jim Crow laws for railroads. Florida extended its first-class law to cover coaches.

⁵²Packard (2002).

⁵³*Chiles v. Chesapeake & Ohio Railway Co.*, 218 U.S. 71, 30 S.Ct 667, 54 L.Ed. 936 (1910). The Court relied on both *DeCuir* and *Plessy* to underscore the distinction between private practices and state mandates.

Florida (1905), and Oklahoma (1907). Texas and North Carolina also followed suit.⁵⁴

Blacks protested these actions and organized boycotts of streetcars in a number of Southern cities between 1891 and 1906. Some streetcar companies joined the protests but others acquiesced, and in the end these efforts were all unsuccessful.⁵⁵

Opponents challenged some of these state practices in court, raising objections to subjecting interstate passengers and trains to Jim Crow. The Supreme Court tended to reject their claims either on the grounds that the regulations only applied to travel within states or imposed only minimal burdens on interstate commerce. Thus, the Court upheld the Kentucky separate car act in a prosecution against the Chesapeake and Ohio Railway Company, which operated a continuous line from Newport News, Virginia, to Louisville, Kentucky, even though it meant the company would have to add an additional car for black passengers when the train crossed the Kentucky border.⁵⁶

The Court later applied the same law to an interurban railroad operating between Cincinnati, Ohio, and Covington, Kentucky, over part of a ten-mile section of track

⁵⁴Woodward (1966), p. 97.

⁵⁵Barnes (1983), pp. 10-11.

⁵⁶*Chesapeake and Ohio Railway Company v. Kentucky*, 179 U.S. 388, 21 S.Ct. 101, 45 L.Ed. 244 (1900). The Court relied principally on its decision in *L. N.O. & T.R. v. Mississippi*, but also discussed *DeCuir*, presumably to draw a distinction between regulations that are purely local and those that have extra-territorial effect. The upshot seemed to be that a railroad could segregate black passengers boarding in a Jim Crow state even if they were traveling to a state without such laws or that prohibited segregation. On the other hand, a black passenger traveling to a Jim Crow state from a non-Jim Crow one could keep their non-segregated seat. The rule imposed another layer of complication on an already confusing situation.

owned by a subsidiary corporation that lay entirely within the state of Kentucky, even though the Court had previously held the same company to be operating in interstate commerce.⁵⁷ In that earlier case, the Court ruled that the City of Covington could not enforce a requirement that the company add extra cars to relieve overcrowding, reasoning that the company might be subject to conflicting regulations from the City of Cincinnati.⁵⁸ Here, however, the Court ruled that the requirement to add an additional segregated car, or provide separate compartments divided by a good and substantial wooden partition, with a door therein on tracks wholly within the State of Kentucky, only affects interstate business incidentally and does not subject it to unreasonable demands.⁵⁹ The three dissenting justices pointed out that, despite the characterization of the company as an interurban, it was actually operating a street railway using an ordinary single truck street car for 32 passengers, and transporting 80 percent of its passengers across state lines between Ohio and Kentucky over a distance of about 5 miles, for a fixed fare of 5 cents. Fewer than 6 percent of its patrons were black, and for most of its route the streetcar typically carried no black passengers. These facts, which suggested that complying with the regulations would be prohibitively expensive, they felt distinguished

⁵⁷South Covington & Cincinnati Street Railway Company v. City of Covington, 252 U.S. 399, 40 S.Ct. 631, 64 L.Ed. 631 (1920).

⁵⁸South Covington & Cincinnati Street Railway Company v. City of Covington, 235 U.S. 537, 35 S.Ct. 158, 59 L.Ed. 350 (1914).

⁵⁹South Covington & Cincinnati Street Railway Company v. City of Covington, 252 U.S. at 400, 403-4.

this case from the earlier decision.⁶⁰

Still, in another case the Supreme Court rejected a suit to enjoin a state Jim Crow law but noted that a provision in the Oklahoma Separate Coach Law authorizing whites-only sleeping, dining and chair cars violated equal protection, even though the limited demand for those facilities by African Americans made it too costly to provide separate coaches.⁶¹ The Court opined:

This argument with respect to volume of traffic seems to us without merit. It makes the constitutional right depend upon the number of persons who may be discriminated against, whereas the essence of the constitutional right is that it is a personal one.⁶²

This minor qualification aside, the Court's decisions through World War I allowed states to require segregation as to intrastate travel, and that railroad companies, even those operating across state lines, were free to establish their own policies enforcing segregation, so long as they provided equal facilities, though in practice that did not apply to first-class accommodations. In essence, the justices basically left the question of

⁶⁰252 U.S. at 407 (Day, J. dissenting).

⁶¹McCabe v. Atchison, Topeka & Santa Fe Railroad, 235 U.S. 151 (1914).

⁶²235 U.S. at 161.

segregation up to the states and private business, in the absence of direct federal pronouncement. Congress did make some attempt at this time to address discrimination in public conveyances though not local transit. The federal Interstate Commerce Commission (ICC) was given jurisdiction over lines that operated between cities and did interstate business, primarily with regard to rates, consolidation of lines, abandonment of service, and labor issues.⁶³ Section 3 of the 1887 Interstate Commerce Act made it illegal to subject any person to any unreasonable or undue prejudice or disadvantage in any respect whatsoever. The ICC, however, ruled that Jim Crow laws did not constitute undue prejudice though it did require that equal accommodations be provided for blacks or whites paying the same fare. Beyond that, the ICC ruled against black litigants in all other complaints through the 1920s.⁶⁴

On trains, blacks were usually excluded from all sleeping, dining and chair cars, or would be forced to eat only after all whites were done. Separate but equal thus became a shibboleth for legally sanctioned discrimination throughout the nation. After 1900, there were few challenges to Jim Crow laws as most accepted the practice. As Catherine Barnes notes in her survey of efforts to end segregation in public transit, Jim Crow had been ruled acceptable under the Fourteenth Amendment, the Commerce

⁶³Jones (1995). The key determinants were whether the line hauled freight cars that it interchanged with steam railroads and the percentage of revenue derived from those activities. Intra-city streetcar operations and suburban lines were not subject to ICC jurisdiction.

⁶⁴Barnes (1983), pp. 6-7, 13-14. Barnes notes that most Southern carriers that barred blacks from first-class cars simply ignored the ICC regulations.

Clause, and the Interstate Commerce Act.⁶⁵

As new modes of transit grew, many Southern states either included them in existing Jim Crow laws or passed separate acts to cover their operations. By the 1920s, local and long distance buses were segregated in the South. Since local carriers, unlike the railroads, generally offered only limited types of service anyway, segregation generally took the form of preferential access rather than differences in quality of service. On streetcars and buses blacks were typically assigned rear seats and forced to give up seats to white patrons. On long distance buses, whites boarded first and blacks had to wait for another bus if the first was full.⁶⁶

In summary, by the early decades of the century, racial segregation became commonplace on public transit in the South, as well as in many other aspects of daily life throughout the nation. It was perhaps the worst period in terms of enforced racial segregation, as well as sheer violence toward African Americans of any time following the end of slavery. The National Association for the Advancement of Colored People (NAACP) was formed in 1909 by W.E.B. Du Bois and others, and campaigned for anti-lynching laws as well as mounting challenges to discrimination in housing, employment, and transportation. Conditions actually worsened in some cases. For instance,

⁶⁵Barnes (1983). Barnes notes that even the ICC generally accepted these practices even when the accommodations offered to blacks were not the equal to those available to whites.

⁶⁶Barnes (1983).

Democratic President Woodrow Wilson segregated federal employment during his term in office, even as thousands of black servicemen defended the country overseas. Still, the end of World War I marked something of a turning point in the civil rights struggle as hundreds of thousands of black Southerners, including many returning veterans who has witnessed greater racial acceptance in Europe, migrated to the North from 1917 to 1920, as many as two million by 1930. Known as the Great Migration, the influx of African Americans had a major impact on the social demographics of Northern cities even as racial prejudice, enforced through both public and private means of housing and employment discrimination, consigned blacks to live in segregated ghettos.

Conditions changed little for black Americans through the Depression years, despite the election of Franklin Roosevelt. In 1941, Philip Randolph, President of the Union of Sleeping Car Porters (Pullman) threatened to disrupt defense efforts with mass demonstrations unless something was done about segregation in the defense industry. President Roosevelt issued Executive Order 8802 declaring there shall be no discrimination in employment of workers in defense industries or government because of race, creed, color, or national origin. There was, however, increased conflict between whites and blacks on public carriers, especially in cities where black workers depended on them to reach war-time employment.

Other groups also attacked discriminatory practices not covered by the President s

order. The recently established NAACP Legal Defense and Education Fund, headed by Thurgood Marshall, to initiate a program to directly challenge Jim Crow laws as barriers to interstate commerce. Despite the Court's previous reluctance to overturn segregationist laws based on the Commerce Clause, the NAACP still viewed it as a promising vehicle since it was not burdened with the Fourteenth Amendment's separate but equal doctrine, even though it only applied to interstate activities.⁶⁷

The test case came in 1944 when a black woman, Irene Morgan, an interstate passenger on a Greyhound bus traveling through Virginia, refused to give up her seat to a white passenger.⁶⁸ The NAACP argued that Virginia's Jim Crow laws could not apply to interstate passengers and if they did, they violated the Commerce Clause. The State Supreme Court of Appeals held that the law did apply to her and that it was constitutional as a legitimate police power regulation that did not interfere with interstate commerce. The NAACP countered that black passengers passing through Virginia would be subject to arrest and prosecution thereby interrupting their journey. Moreover, complying with different laws in different states could mean multiple seat changes during a trip and dealing with different state definitions of white and black.⁶⁹ The U.S. Supreme Court,

⁶⁷Barnes, (1983), pp. 37-44. See *Edwards v. California*, 314 U.S. 160 (1941), where the Supreme Court invalidated a California law prohibiting the transportation of indigent persons into the state on Commerce Clause grounds.

⁶⁸Irene Morgan was awarded the Presidential Citizens Medal in 2001 by President Clinton.

⁶⁹Barnes (1983), pp. 44-51.

overturned the Virginia law as an undue interference with interstate commerce, declaring that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel.⁷⁰ Even though the Court had ruled segregation laws applied to interstate buses unconstitutional, since *Morgan* only applied to state laws, private bus companies, like railroads, often adopted their own internal segregation policies to avoid problems operating in different states.⁷¹ Following the *Morgan* decision, the Congress of Racial Equality (CORE) sent an interracial group of followers on a Journey of Reconciliation to test the decision by riding buses through parts of the South. They met resistance and several were arrested.

The NAACP remained determined to end private discrimination by interstate carriers. The organization brought a subsequent case which challenged the Southern Railway Company's policy of offering separate but equal accommodations in its dining

⁷⁰*Morgan v. Virginia*, 328 U.S. 373, 385 (1946). The Court relied principally on the *DeCuir* case as to the impact on commerce, and rejected cases upholding segregated accommodations as only applying to intrastate travel. See *Bob-Lo Excursion Co. v. Michigan*, 333 U.S. 28 (1948). The *Bob-Lo* case rejected Commerce Clause arguments made by a ferry company that operated in international waters and had refused service to a group of black teenagers traveling to an island that was part of Ontario, Canada, in violation of a Michigan anti-discrimination statute. Despite the factual similarity to *DeCuir*, the Court ruled that the Michigan law did not burden foreign commerce (noting that Ontario law also prohibited racial discrimination). Together the *Morgan* and *Bo-Lo* cases seemed tailored to help blacks since together they held that a state segregation laws burdened interstate commerce but pro-civil rights laws did not. Justice Douglas in his concurring opinion in the *Bo-Lo* case, explicitly concludes that it is not the inconsistency of state regulations that threaten commerce, but segregation in violation of the Fourteenth Amendment:

Nothing short of at least equality of legal right (*Missouri ex rel. Gaines v. Canada*, 305 U.S. 337, 350) in obtaining transportation can satisfy the Equal Protection Clause. Hence I do not see how approval of Michigan's law in any way interferes with the uniformity essential for the movement of vehicles in commerce. The only constitutional uniformity is uniformity in the Michigan pattern. 333 U.S. at 42.

⁷¹In *Chiles v. Chesapeake & Ohio Railway*, 218 U.S. 71 (1910), the Supreme Court had upheld the right of private companies to impose Jim Crow regulations on interstate travelers.

cars where it nominally reserved two tables for blacks but refused to seat a black patron when seats at those tables had already been taken by whites. The passenger, Henderson, complained that the company's policy failed to meet the equality of service standard set out in *Mitchell v. United States*. In proceedings before the Interstate Commerce Commission (ICC), Henderson's attorneys argued that Southern's policy of limiting the number of dining seats that could be occupied by blacks was unreasonable discrimination that violated the Interstate Commerce Act. In *Mitchell*, the Supreme Court had unanimously held that the Chicago, Rock Island Pacific Railway improperly removed a black Congressman from the company's Pullman car and forced him to accept second class accommodations even though he held a first class ticket.⁷² Before the ICC, the company had successfully argued that it was reasonable to comply with Arkansas segregation law since there was insufficient demand to justify a separate Pullman car for blacks and besides the Jim Crow coach cars were substantially equal to the Pullman cars. The ICC agreed by a 6 to 5 vote that traffic volume was a legitimate consideration, marking the first time it had actually held that unequal accommodations for blacks and whites were valid in principle. Until then the Commission had generally accepted the equal facilities rule but typically found that inequality had not been proved. Here, however, the Commission endorsed unequal treatment.⁷³

⁷²*Mitchell v. United States*, 313 U.S. 80, 61 S. Ct. 873, 85 L.Ed. 1201 (1941).

⁷³Barnes (1983), pp. 20-24.

On appeal, the Supreme Court held that the ICC ruling violated the Fourteenth Amendment as well as the nondiscrimination provisions in the Interstate Commerce Act. Still, it avoided deciding whether either state segregation laws or railroad practices could apply to passengers in interstate commerce. But, the Court ruled specifically here that the guarantee of equal treatment belonged to each individual, not the group, and therefore:

[T]he comparative volume of traffic cannot justify the denial of a fundamental right of equality of treatment, a right specifically safeguarded to each particular person by the Interstate Commerce Act.⁷⁴

Although the decision upgraded the level of equality demanded under the separate-but-equal rule it had not ended Jim Crow.⁷⁵ Some railroads often desegregated their first-class cars even in Southern states when the cost of providing equal accommodations to blacks and whites was prohibitive. As a practical matter, though, interstate black passengers were still assigned to seats in the main car when separate drawing rooms were not available, and were forced to sit in partitioned sections in the dining cars. And,

⁷⁴313 U.S. at 97. The Court relied on its earlier decisions in *McCabe v. Atchison, Topeka & Santa Fe Railroad*, 235 U.S. 151 (1914) and *Gaines v. Canada*, 305 U.S. 337 (1938) that unequal accommodations violated the Fourteenth Amendment and were therefore unjust discriminations banned by the Interstate Commerce Act. *Id.* at 94-5. In *McCabe*, the Court opined that an Oklahoma law could not lawfully authorize whites-only sleeping, dining and chair cars, even though the limited demand for those facilities by African Americans made it too costly for the railroad to provide separate coaches. In *Gaines*, the Court held that the limited number of blacks seeking admission to law school did not justify Missouri in refusing to provide legal education, even in a separate school.

⁷⁵Barnes (1983), p. 30.

intrastate black passengers were barred from all club, observation and lounge cars which lacked segregated sections. Moreover, *Mitchell* only applied to first-class accommodations, while second-class cars, where most blacks rode, remained segregated.⁷⁶

Rejecting Henderson's charge, the ICC held that the Act did not prohibit private segregation in dining cars concluding that *Mitchell* only required substantial equality of treatment of persons traveling under like conditions. The Court of Appeals also rejected the segregation claims but held that the company's regulations were invalid as they did not provide any exclusive tables for blacks. The company modified its policy to reserve one table with four seats solely for black diners. On remand, the NAACP attorneys argued this policy was still unequal, but the ICC held the new rules to be reasonable and the Court of Appeals upheld the ruling.⁷⁷

On appeal to the Supreme Court, the NAACP argued that the recent *Morgan* decision required a uniform national rule but also attacked the *Plessy* doctrine.⁷⁸ The

⁷⁶Barnes (1983), p. 24-34.

⁷⁷Henderson v. I.C.C., 80 F.Supp 32 (D.C. Md 1948).

⁷⁸The NAACP decided to challenge *Plessy* directly on the assumption that unless the Court could be persuaded that segregation was unconstitutional under the Fourteenth Amendment, it was not likely to ever hold it unlawful under the Interstate Commerce Act. If, however, segregation was held unconstitutional under the Fourteenth Amendment then the federal ICC could not interpret that Act to sanction it without violating the Fifth Amendment due process clause.

court of Appeals had rejected *Morgan* as inapplicable to private railroad rules.⁷⁹ The NAACP argued that since *Morgan* held the right to equal treatment belonged to each individual it could not be satisfied by apportioning space in the dining cars and providing only a limited amount of space for black passengers. Their position was supported by the Justice Department, which also argued that the legal and factual assumptions of the *Plessy* decision were wrong. The Supreme Court ruled unanimously but on narrow grounds in favor of the plaintiff Henderson, declining to reconsider *Plessy*. Since even under the company's new policy blacks could be denied a seat even if one was available in the whites-only section, solely because of their race the Court held that the nondiscrimination clause of the Interstate Commerce Act governed and that *Mitchell* required equal treatment. As a practical matter the decision ended segregation in first-class cars on railroads since there was no way to avoid complying except by offering seats on a first-come first-served basis.⁸⁰ These two cases, *Mitchell* and *Henderson* were significant in that both invalidated carrier regulations, as opposed to state laws. Nevertheless, segregation remained the rule on second class railway coaches, where facilities for blacks were often inferior to those for whites, as well as on local buses and streetcars.⁸¹ Further progress on integrating public transportation would have to await a frontal challenge to *Plessy's* separate but equal doctrine that would not come for

⁷⁹The *Morgan* decision had been applied to railroads operating in Washington D.C. *Matthews v. Southern Railway*, 157 F.2d 609 (D.C. Cir. 1946) [noting invalidity of a Virginia segregation statute].

⁸⁰Barnes (1983), pp. 66-80.

⁸¹Barnes (1983), pp. 31-34.

several more years.

The Montgomery Bus Boycott

On December 1, 1955, Rosa Parks, a secretary with the Montgomery, Alabama NAACP, refused to give up her seat on a Montgomery city bus (owned by National City Lines) to a white man and was arrested. Ms. Parks was found guilty and fined ten dollars. E.D. Nixon, a regional officer in the Brotherhood of Sleeping Car Porters (Pullman) and past President of the local NAACP, personally called the Reverend Ralph Abernathy about the situation. Nixon suggested that a young minister and member of the Southern Christian Leadership Conference (SCLC), Martin Luther King, Jr., be asked to lead a boycott by African American residents of Montgomery against the city's segregated bus system. King formed the Montgomery Improvement Organization (MIO) and became its president. The MIO made three demands: 1) that drivers be courteous to black riders, 2) that passenger be seated on a first-come first-served bases with blacks boarding from the rear and whites from the front of the bus, and 3) that the city hire black drivers on predominately black routes. Backed financially by the Brotherhood, the year-long boycott resulted in a major civil rights victory as the city capitulated and agreed to

integrate its buses.⁸² Similar boycotts were organized in other cities and were often quite effective since local transit providers depended heavily on African American passengers (A total of 3/4 of Montgomery's bus riders were black). Whites resisted these efforts and did whatever they could inside and outside the law to end them.

The NAACP agreed to represent Ms. Parks on the appeal of her conviction. They also brought a complaint in federal court to declare the city and state bus segregation laws unconstitutional. In *Browder v. Gayle*, the federal court on a 2 to 1 vote concluded that in light of the Supreme Court's decision in *Brown v. Board of Education* there was no rational basis upon which the separate but equal doctrine can be validly applied to public carrier transportation.⁸³ Another federal court had previously ended segregation on city buses and streetcars.⁸⁴

Over the years, the Court had whittled away at the *Plessy* doctrine of separate but equal but did not sweep it out altogether until Thurgood Marshall, as head of the NAACP Legal Defense and Education Fund, brought a series of cases in which he argued directly that separate public schools for white and black children were inherently unequal because they stigmatized members of the minority race and provided an inferior

⁸²Tye (2004); Barnes (1983), chapter 7. The MIA later abandoned its moderate position and demanded a complete end to segregated buses.

⁸³*Browder v. Gayle*, 142 F. Supp 707 (MD Ala. 1956).

⁸⁴*Flemming v. S.C. Electric & Gas Co.*, 224 F.2d 752 (4th Cir. 1955).

education. In two earlier decisions, one involving a law school⁸⁵ and the other a graduate school,⁸⁶ the Court upheld the separate but equal rule as applied to public education, while finding that the facilities provided to blacks were not equivalent to those accorded whites. Though some in the NAACP argued for making slow but steady progress within the existing legal framework, Marshall concluded that the time was right for a direct assault on the *Plessy* decision. The NAACP appealed five lower court decisions from around the country upholding segregation in public schools. The court heard arguments in the five consolidated cases in December of 1952 but did not reach a decision, instead ordering that the case be reargued the following term. Meanwhile, Chief Justice Vinson suffered a heart attack and died. His replacement, former governor Earl Warren, worked hard to bring the court together, knowing that much of the country, particularly in the

⁸⁵*Sweatt v. Painter*, 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1113 (1950). In response to an order to admit a black applicant to the University of Texas Law School, the state established a separate law school for black students, which the Texas Supreme Court ruled satisfied the Fourteenth Amendment. The Supreme Court reversed, holding that the educational opportunities afforded black law students by the state of Texas were inferior to those for whites. The Court based its ruling in part on the differences in the caliber of the faculty, the size of the library, and lack of extracurricular programs. However, the Court also noted that future attorneys need to interact with the broader society, an opportunity denied to those forced to attend an all black law school and importantly, pointedly rejected the notion that the treatment accorded blacks and whites was constitutionally equivalent since whites were also barred from attending the black law school, inasmuch as whites would not choose to attend an inferior school. Though the Court based its decision squarely on *Plessy*, the practical effect was to force the state either to desegregate or bear the cost of maintaining two separate schools with essentially equivalent facilities.

⁸⁶*McLaurin v. Oklahoma Regents for Higher Education*, 339 U.S. 637, 70 S.Ct. 851, 94 L.Ed. 1149 (1950). In this case, under court order the state of Oklahoma admitted a black applicant to a graduate education program at the University of Oklahoma, but imposed conditions requiring his to eat, study, and attend classes only in places designated for blacks. Despite the fact that blacks and white used the same facilities the Court held that the state could not deny individuals of different races the right to commingle should they choose to do so. Without mentioning *Plessy*, the opinion nevertheless cut deeply into the symmetry of treatment rationale underlying that decision.

South, would resist a divided decision. But in the landmark *Brown* decision⁸⁷ the Court unanimously accepted Marshall's argument and repudiated the separate but equal doctrine as it applied to public education. In the remedial phase, however (*Brown II*⁸⁸) the Court seemed to adopt a cautionary tack as it ordered that purposefully segregated school systems be integrated with all *deliberate* speed. Despite these apparent victories, efforts to integrate public education and other areas of social life unfortunately proceeded far more deliberately than speedily over the ensuing decades.⁸⁹ Still, the *Browder* decision was upheld by the Supreme Court in a *per curiam* opinion that effectively put an end to the *Plessy* doctrine in public transit.⁹⁰

Even with the Supreme Court's backing, desegregating public transportation city by city, or company by company, could have taken years. Therefore it is significant that in November of 1955, the ICC finally reversed itself, finding racial discrimination on buses and trains to be unreasonable and abandoned its support for the separate but equal doctrine, ending segregation in interstate travel.⁹¹ Only a few years earlier, it had upheld

⁸⁷*Brown v. Board of Education of Topeka, Kansas* (1954) 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873.

⁸⁸*Brown v. Board of Education of Topeka, Kansas* (1955) 349 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873.

⁸⁹Interestingly, neither *Brown* or any subsequent decision, formally overruled *Plessy v. Ferguson* though the Court has consistently acted as though it did. Chief Justice Warren merely indicated that the Social Darwinist basis for segregation could not be sustained in light of modern scientific evidence.

⁹⁰*Gayle v. Board of Commissioners of Montgomery, Alabama*, 352 U.S. 903, 77 S.Ct. 145, 1 L.Ed.2d 114 (1956).

⁹¹*NAACP v. St. Louis - S.F. Ry.*, 297 ICC 335 (1955); *Keys v. Carolina Coach Co.*, 64 MCC 769 (1955).

the segregation of railway dining cars. In the Deep South, though, states vowed to maintain Jim Crow laws for intrastate travelers. Most companies eliminated segregation for interstate passengers but for a while those operations in the South tried to maintain it for intrastate riders, though by this time public transit use was already declining, especially among whites.⁹²

Local carriers had even greater economic incentive to end segregation than interstate carriers since they depended more on black patrons, but the companies needed some assurances against southern retaliation. These decisions gave bus and rail companies the legal basis to end segregation. By the 1960s, following *Browder*, segregation largely ended on both interstate, and later intrastate, bus and rail lines.⁹³ Segregation continued in some terminal facilities and civil rights groups continued to institute lawsuits and organize nonviolent protests to end segregation. In 1961, a group of white and black Freedom Riders from CORE rode interstate buses in the South to call attention to continuing discrimination on buses and in terminals. They were met with violence from white mobs in Alabama, forcing Attorney General Robert Kennedy to call in federal marshals to protect them. While not publically backing the protests directly for fear of antagonizing white Southerners, he did work out arrangements with the state's segregationist governor to protect the riders from further attacks. And soon afterward, at

⁹²Barnes (1983), pp. 102-107.

⁹³Barnes (1983), pp. 129-131.

Kennedy's urging, the ICC finally issued new rules banning all segregation both on buses and in bus terminals.⁹⁴ In 1962, the Supreme Court ruled that no state may require racial segregation of interstate or intrastate transportation facilities.⁹⁵ Aided by passage of the 1964 Civil Rights Act, official segregation on local buses and streetcars largely disappeared by 1965, though in some places bus companies responded by creating nearly all-white or all-black routes.⁹⁶

As Barnes points out in her history of Jim Crow, as early as the 1930s blacks had mounted effective legal campaigns, and from 1941 on the Supreme Court ruled in favor of black litigants in every segregation case it decided but often on narrow grounds. By contrast, Congress did little during this period due to Southern legislative strength and restrictive legislative procedures, such as the Senate filibuster rules. President Eisenhower believed that the federal government should promote equality in interstate travel, an area where it had jurisdiction, but his administration often failed to enforce desegregation rulings. President Kennedy tried to prevent racial violence but likewise did little, at least initially, to enforce civil rights. In the end, segregation in public transit was ended from a combination of black economic and legal pressure. The success was in part due to the limited degree of contact between blacks and whites on transit and general

⁹⁴Barnes (1983), chapters 8 & 9.

⁹⁵Bailey v. Patterson, 369 U.S. 31 (1962).

⁹⁶Barnes (1983), pp. 189-192.

social acceptance of the relatively minor social interaction, as well as the increasingly fewer numbers of white transit riders.⁹⁷

Discrimination in Public Transit Programs

As a result of *Brown* and its progeny, the courts now take a dim view of racially based classifications in law. Under the so-called new equal protection, such classifications are still not prohibited outright, but they must be justified by reference to a higher standard of analysis than the traditional rational basis test that applies to ordinary economic legislation. Courts will strictly scrutinize any race-based legislation to determine whether it serves some compelling governmental interest. Purposeful discrimination is outlawed and by and large the civil rights issues surrounding public transit no longer concern equal access to buses and trains. As discussed in the ensuing chapters, the questions now focus on whether whites and minorities are treated equally in terms of the types of transit service they generally use and the amount of funding each receives. Since whites and minorities typically use transit differently to the extent that public policies favor those modes used by non-minorities, leaving minorities to rely on services that are inferior to those used primarily by whites, a legal argument exists that those policies are discriminatory.

⁹⁷Barnes (1983), especially Chapter 11.

The policy shift from supporting local bus service to building fixed rail serving regional markets, has been a response to the changes in the demographics of transit riders documented in the following chapter. While there are more higher-income, more white, and more male transit riders on rail (who have alternative access to automobiles), an increasing proportion of bus patrons are women, poor, and persons of color, the majority of whom must depend on transit. For these transit dependent persons the impact of federal, state and local transit policies can have as devastating an effect on their daily lives as the Jim Crow regulations of a previous era. Advocates for transit dependents have challenged these practices as violations of equal protection under the Fourteenth Amendment.

Frustration with the slow progress of enforcing the Fourteenth Amendment through the court system led to pressure in Congress to address the problem of segregation through another avenue. In 1963, President Kennedy proposed national civil rights legislation in response to the growing civil unrest in the country. The administration's initial bill was seen as too weak by many liberals and too onerous by conservatives, particularly southerners whose votes Kennedy would need in the upcoming election. Violence against innocent African Americans prompted the President to endorse a tougher bill in 1963. Following the assassination of President Kennedy in Dallas, President Lyndon Johnson pushed this legislation through Congress, but not without various procedural protections to address Southern concerns. A chief aim of the

federal 1964 Civil Rights Act was to put the power of the federal purse behind struggles for civil rights. Proponents sought to secure administratively what litigation under the Constitution had not. Liberal supporters believed that the 1964 Act would buy racial peace in a period when demands by minorities for social justice were becoming more vocal and social protests threatening to become more violent. As discussed later in Part III, those efforts have again raised the issue of civil rights and public transit, no longer over rights of access to public accommodation as in the pre-*Brown* period, so much as equality in the provision of transit service to low income persons and communities of color.

Title VI of the Act prohibits governmental discrimination on the basis of race, color, or national origin under any program receiving federal funds. Section 601 of the Act prohibits the expenditure of federal tax dollars for any public or private program that engages in racial or ethnic discrimination:

No person in the United States shall, on the ground of race, color, or national origin, or be excluded from participation in, be denied the benefits of, or subject to discrimination under any program or activity receiving Federal financial assistance.⁹⁸

⁹⁸42 U.S.C. §2000d. Pub . L. 88-352, Title VI, § 601, July 2, 1964, 78 Stat. 252.

Congress has the power to authorize federal agencies to adopt regulations that forbid discrimination in transportation programs receiving federal funding, which nearly all transit companies do as the industry has become predominately publically owned and operated. Section 602 authorized all federal departments and agencies responsible for providing financial assistance to issue regulations implementing the ban in Section 601.

Section 602 states:

Each Federal department and agency which is empowered to extend Federal financial assistance. . . is authorized and directed to effectuate the provision of [§ 602] . . . by issuing rules, regulations, or orders of general applicability.⁹⁹

Under this provision, governmental agencies may restrict practices having a discriminatory *effect* even if there is no intent to discriminate. The distinction between intent and effect is a significant one for civil rights jurisprudence. Under Jim Crow, discrimination was deliberate and purposeful it was written into law. The early struggles through *Brown* all aimed to eliminate explicit racial distinctions in the public legislation. But the elimination of *de jure* segregation left open avenues for public officials to employ more subtle practices of discrimination. The Supreme Court flirted briefly with abolishing any legal distinction between *de jure* and *de facto* segregation

⁹⁹42 U.S.C. §2000d-1. Pub . L. 88-352, Title VI, § 602, July 2, 1964, 78 Stat. 252.

under the Equal Protection clause of the Fourteenth Amendment,¹⁰⁰ it ultimately held that only intentional conduct would result in a violation.¹⁰¹ In light of the Court's ruling, the ability of Congress to curb institutional racism in public programs under its Fourteenth Amendment enforcement powers becomes ever more significant.

Pursuant to the authority contained in Section 602, the Department of Transportation adopted regulations prohibiting any transportation agency receiving federal funds from discriminating against protected minorities.¹⁰² The regulations prohibit public transit authorities receiving federal transportation funds from expending those monies in any way that causes a disproportionate impact on minorities:

A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the *effect* of subjecting persons to discrimination because of their race, color, or national origin. . .

¹⁰⁰Keyes v. School district No. 1, 423 U.S. 189 (1973), especially the opinions of Justices Douglas and Powell.

¹⁰¹Washington v. Davis, 426 U.S. 229 (1976).

¹⁰²49 C.F.R. Part 21. The Urban Mass Transit Authority issued Circular 1160.1A, dated September 18, 1987, interpreting those regulations. Its successor agency, the Federal Transit Administration issued a revised Circular 4702.1, dated May 26, 1988.

Inasmuch as an increasing proportion of transit-dependent riders are members of minority groups, policies which favor new suburban commuters, most of whom are white, may well have a disproportionate impact on service to existing inner city riders in violation of the regulations.

In 1994, President Clinton issued Executive Order 12898 which required each federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations *and* low income populations.¹⁰⁴ The DOT issued its response to Executive Order 12898 in June 1995 along with its overall strategy for environmental justice.¹⁰⁵ In 1997, it finalized agency rules to identify and mitigate any disproportionate effects.¹⁰⁶ The rules were

¹⁰³49 C.F.R. § 21.5 (emphasis added).

¹⁰⁴Executive Order 12898, February 11, 1994 (emphasis added).

¹⁰⁵U.S. Department of Transportation Final Environmental Justice Strategy, Federal Register Vol 60, No. 125, June 29, 1995. Pp. 33896-33899;

¹⁰⁶U.S. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations, Federal Register Vol 62, No. 72, April 15, 1997. Pp. 18377-18381. Adverse effects include destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public or private facilities and services; . . . exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits or DOT programs, policies or activities. *Id.* Appendix, ¶ 1.f. Disproportionately high and adverse effects are defined as an adverse effect that (1) is predominately borne by a minority population and/or a low-income population, or
(continued...)

designed to incorporate environmental justice concerns in the existing planning and review processes required under ISTEA, NEPA, and Title VI.

Civil Rights Law and Public Transit

As transit planners and other activists concerned with social equity have begun to address how current federal policies and regional politics have led to allocations of public transit resources that have done little to increase transportation choices for low income residents, some advocates for transit dependents have turned to the courts to confront transit policies that they believe disadvantage poor and minority transit riders with the aim to force policy makers to increase service to low-income, predominantly minority areas. Recent litigation against several major U.S. regional transit authorities raising objections to fixed rail projects and agency transit fare policies in many ways represents a continuation of the work begun some two decades ago by the Ohio planners.

At the time these lawsuits were brought, plaintiffs could allege that a transit agency violated the DOT regulations by making a prima facie showing that its policies or in other words that placed a greater burden on members of a protected minority group. If

¹⁰⁶(...continued)

(2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population. *Id.* ¶ 1.g.

they could establish this disparate impact, the legal burden shifted to the agency to offer a substantial legitimate justification for the alleged discriminatory practice.¹⁰⁷ Even if the defendant agency proved that there were non-discriminatory reasons for their actions, the plaintiffs could still win their case by demonstrating that other less discriminatory means would serve the same objective.¹⁰⁸ Since these cases were decided, the Supreme Court has ruled that evidence that notwithstanding the DOT regulations, a private litigant cannot establish a violation of equal protection merely by showing that a government program, otherwise neutral on its face, has a disproportionate impact on a minority group, though it may serve as evidence of an improper motivation on the part of the agency.¹⁰⁹

In *Committee for a Better North Philadelphia v. Southeastern Pennsylvania Transportation Authority (SEPTA)*¹¹⁰ the federal district court held that SEPTA's practice of cross-subsidizing fares between its rail and bus system, which had the effect by raising fares for minority bus riders, was nevertheless justified as a business necessity to increase rail ridership.

¹⁰⁷Georgia State Conference of Branches of NAACP v. Georgia, 775 F.2d 1403, 1417 (11th Cir. 1985).

¹⁰⁸775 F.2d at 1417; see Larry P. v. Riles, 793 F.2d 969, 982 n.10. (Slip op. p. 11).

¹⁰⁹The Court in *Washington v. Davis* (1976) 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597, stated that the invidious quality of a law claimed to be racially discriminatory must ultimately be traced to a racially discriminatory purpose.

¹¹⁰Committee for a Better North Philadelphia v. Southeastern Pennsylvania Transportation Authority (SEPTA), 1990 U.S. Dist. Lexis 10895 (E.D. Pa 1990), *aff d*, 935 F.2d 1280 (3rd Cir. 1991).

At the time, SEPTA's City Transit Division, which operated bus, subway and trolley service in Philadelphia, accounted for 84 percent of SEPTA's total ridership and 76 percent of the system-wide passenger revenues, while the Regional Rail Division, which operated a rail commuter service linking Philadelphia with the four contiguous counties accounted for only 9 percent of SEPTA's ridership and just 19 percent of its passenger revenues. SEPTA developed a program to counter lower than expected revenues from the Regional Rail Division by allocating federal funds received under the Urban Mass Transportation Act (UMTA),¹¹¹ from the City Transit Division to the Regional Rail division to increase ridership on the rail line. As a result the City Transit passengers, which included a higher proportion of African American riders than the rail system, paid a higher percentage of that division's operating expenses than did rail patrons.

SEPTA conceded that its policies had a disproportionate impact on minority riders but defended its actions on the grounds that it was required by law to operate an integrated mass transit system throughout the five county area it served while maintaining a balanced budget. In the business judgment of the agency, this required increasing ridership on the rail system. Plaintiffs suggested, though, that the agency could either reduce service on the rail line or increase fares in order to equalize operating deficits across the two systems. The court found, however, that there were no less discriminatory

¹¹¹49 U.S.C. § 1601-13; now the Federal Transit Act, 49 U.S.C. § 5300 et seq.

alternatives and that SEPTA has used its best business judgment in setting fares since increasing fares or decreasing service on the rail system would adversely affect ridership levels.

Transit advocates initially fared better in challenging the actions of the New York Metropolitan Transit Authority (NYMTA) in *New York Urban League, Inc. v. Metropolitan Transportation Authority, et al.*,¹¹² a coalition of community groups sought and obtained a preliminary order enjoining the NYMTA from increasing fares 20 percent on subways and buses but only 9 percent on commuter lines on the grounds that the proportionately higher fare increase for bus and subway riders had a disparate impact upon minority riders of the New York City transit system given that most bus and subway riders were minority while the vast majority of the commuter line users were white. While operating subsidies were only twice as high on the bus and subway systems as on the commuter lines, the number of persons using the buses and subway outnumbered those using the commuter lines by nine to one. Plaintiffs claimed that minority subway and bus riders paid a higher share of the cost of operating that system than predominantly white commuter line passengers. The trial court agreed. However, the Court of Appeals reversed that decision, holding that the district court improperly focused on the fare increase without examining the broader financial and administrative context in which it

¹¹²*New York Urban League, Inc. v. Metropolitan Transportation Authority, et al.*, 95 Civ. 9001 (RPP); *reversed* *New York Urban League, Inc. v. The State of New York, Metropolitan Transportation Authority, et al.*, 71 F.3d 1031 (2nd Cir. 1995), Docket No. 95-9128.

was adopted.

The appellate court found that even if the NYMTA could shift fare revenues from the commuter lines to buses and subway lines, the district court had failed to make a finding that the availability of commuter line revenues would obviate the need for a 20 percent increase in bus and subway fares. In fact, the testimony showed that raising equivalent revenues through an equal percentage increase on each system would result in a \$0.20 increase in bus and subway fares. Similarly, there was no finding that increasing commuter fares to yield the same farebox recovery ratio would eliminate the need for the bus fare increase.

In addition, the appellate court also concluded that since the focus of the complaint was on the total allocation of subsidies to the buses and subways compared to the commuter lines, the district court should have considered whether the NYMTA had a substantial legitimate justification for that allocation. The defendants had identified several factors favoring higher subsidization of the commuter lines. By encouraging suburban residents not to drive into the city, they argued, subsidization of commuter rail (1) minimizes congestion and pollution levels associated with greater use of automobiles in the city; (2) encourages business to locate in the city; and (3) provides additional fare-paying passengers to the city subway and bus systems. The court concluded that subsidizing commuter rail may benefit minority riders of the subway and bus system and

thus the district court should have determined whether these considerations would justify the relative allocation of total funds between the two systems.

The application of federal legislation to public transit broke new ground both in law and in the field of civil rights. In the past, civil rights jurisprudence focused on increasing access for minorities to largely white suburbs through housing and school desegregation cases. As such, it deserves mention that attempts to curtail suburban transit expansion in favor of improving local bus service would seem to run counter to the logic of these efforts and may indeed reflect some turning away from integrationist strategies. On the other hand, as noted above, it may be questionable whether transit systems that are designed around serving white collar employees in the CBD will in fact improve access to the suburban employment centers for central city residents anyway who, for the most part, currently tend to shop and work closer to their homes, or make it practical for them to relocate.

The focus on *racial* discrimination, while dictated by the language and scope of the Act, as interpreted by the Supreme Court, must not be seen to obscure the fact that these same policies may also have disproportionate impacts on many transit riders, without regard to their race, but because their age, income, gender, or even residential location, makes them dependent on public transit for their transportation needs. While discrimination against the poor, women, youth, the elderly, or inner city residents, may

not be legally actionable under present federal civil rights laws, they are nevertheless problems that should not be ignored. Rather than permitting the limitations in the Act to force premature closure on the public debate over inequality in current policies by restricting any discussion solely to questions of race, the principles embodied in the Act should be viewed as providing an opening into the larger question of social equity in public transit generally.

Indeed, the existence of an *effects* test, though not without controversy (see Chapter Nine) itself suggests such a move, by shifting the focus from questions of intentionality or motivations to concern over consequences and outcomes. Once we begin to focus on the results of certain policies or programs it is easier to see how they might disadvantage all different sorts of people and groups. In the transportation context, this can be seen in the shift from being concerned solely with *access*, as exemplified by the Jim Crow cases discussed above, to a focus on *accessibility* as measured by how well transit serves the needs of everyone, but especially those whose alternative transportation choices are limited.

As described in the previous chapter, transit use has remained relatively stable for the past forty years in absolute terms, but as a share of overall travel it has continued to decline. There has also been an increase in the modal share of transit trips on rail, compared to bus ridership. Overall, among all transit riders, women tend to ride transit

more than men, as in general do the poor, and members of minority groups. But, there are also significant race, ethnic, income, gender, and age differences between transit riders across different transit modes (buses, subways, and commuter rail) as well as by time of day. Specifically, there is a clear dichotomy between declining numbers of urban local bus and subway riders on the one hand, who tend to be overwhelmingly poor, female, and members of minority groups, compared with the expanding ranks of suburban express bus and commuter rail riders, on the other, where a higher proportion of riders are wealthier, white, and male, particularly during rush hours.

The changing modal distribution of riders reflects in part, the different travel purposes to which these modes are most suited. The fact that transit use is relatively skewed toward peak hour work trips compared to other modes, also influences the composition of those who ride transit. But it is also the result of public policy choices over which markets transit should serve. Where public transportation policies are geared toward accommodating certain types of travel, such as rush hour journey-to-work trips, or particular transit modes, namely rail, in which working age, suburban white males are over-represented, those policies will exhibit a certain amount of age, race, and gender bias, even if not purposeful.

State and federal policies that favor rail transit over buses, and peak travel over off-peak, can adversely impact the elderly, women, and the urban working poor,

compared to financially well-off business travelers. Such policies may also disadvantage racial and ethnic groups. It is extremely important to recognize again, however, that the fact that civil rights law deals only with *racial* disparities, should not, as a policy matter, obscure the equally problematic realities of age, sex, and geographic discrimination.¹¹³

The next section examines these changing patterns of transit use and the policies that influence the differing levels of transit service that all of these various populations receive. The information is abstracted from a more detailed study of transit use based on data from the periodic Department of Transportation National Personal Transportation Survey (NPTS) which is contained in the Addendum to this dissertation. Except as indicated all figures are based on the 1995 NPTS.

Characteristics of Transit Riders

Although transit ridership in most places is relatively low, for those without access to other modes of travel transit represents an important means of getting around. While less than ten percent of all households lack a car, nearly half of all transit trips are

¹¹³Although civil rights law does not make economic or locational discrimination actionable, the essence of Title VI disparate impact regulations is that policy makers may not rely on even superficially neutral, non-racial characteristics, where they result in disproportionate impacts on racial or ethnic minorities. In other words, the presence of social and economic differences due to general, societal discrimination, should not be an excuse.

taken by persons without access to an automobile, compared to less than two percent of automobile trips. These so-called transit dependant riders differ significantly from the general population on the basis of age, gender, race/ethnicity, income and place of residence. By and large, outside of a few densely populated city centers like New York or San Francisco, as a group transit dependents are more likely to be older, poorer, members of minority groups, and female than those transit riders who have automobiles available to them. Non-drivers are far more likely to use transit than drivers in all areas, but in areas over 3 million, while drivers used transit just over 2 percent of the time, non-drivers took transit about 17 percent of the time.¹¹⁴

Transit use declines quickly with increasing automobile access. In 1995, those in households with at least one vehicle used transit on average just 1 percent of the time and those with two or more household vehicles took transit half as often.¹¹⁵ Overall, persons in carless households made roughly 20 percent of their trips by transit, ten times more transit trips than all persons combined (see Table 3.1). Still, even among those living in households that did not own an automobile transit use is not especially high, a fact rarely acknowledged by the Bus Riders Union and others who advocate transit on behalf of the poor. On the other hand, public transit captures a larger share of trips to and from work by those with some auto access. Those with access to an automobile use transit primarily

¹¹⁴Hu & Reuscher (2004).

¹¹⁵1995 NPTS.

to get to and from work; 40 percent of their transit trips are work trips compared to less than 30 percent for those without cars. Indeed, those with cars take 61 percent of all transit work trips but less than half of other types of transit trips, except those to school or church.

Access to automobiles is also a factor in transit mode split. Nearly half of all bus and subway riders, but only one-third of commuter train riders, are from households with no vehicle access.¹¹⁶ Roughly another one-third of all transit riders are from one-vehicle households. While persons from two or more vehicle households account for only 14 percent of bus and subway riders, they make up nearly 37 percent of commuter rail patrons. In sum, transit dependents were more likely to ride buses, while so-called choice riders made up a larger share of commuter rail patrons.

¹¹⁶Bus transit includes streetcars (light rail), subway includes elevated rail.

Table 3.1. Mode Split by Automobile Availability, 1995 (Millions)

	No Auto	1 or more automobiles	3 or more automobiles	All
Private Vehicle	6,123 37.8%	321,278 88.6%	92,229 91.1%	327,399 86.4%
Public Transit	3,151 19.4%	3,490 1.0%	477 0.5%	6,638 1.8%
Other mode	5,747 35.5%	26,675 7.4%	5,832 5.8%	32,424 8.6%
Walking	4,647 28.7%	15,678 4.3%	2,982 2.9%	20,235 6.1%
Other non-walking	1,100 6.8%	10,997 3.0%	2,850 2.8%	9,563 3.4%
All Modes	16,208 100%	362,722 100%	101,288 100%	378,930 100%

Source: 1995 NPTS.

As over one-third of transit trips are work related, transit use is naturally higher among adults, particularly those of working age. Nearly seventy percent of trips are made by those between the ages of 21 and 65. Still, over 9 percent of transit riders are age 65 or older. The rate is even higher in smaller urban and rural areas. Women make up a large proportion of all transit riders, especially among the elderly. Nearly 57 percent of all transit trips are made by women. Women transit riders outnumber men in all but the 31-35 and 41-45 age groups, and women over age 75 account for far more transit trips than comparably aged men. Indeed, women constitute the overwhelming majority of

elderly transit riders. While persons over age 65 make up less than 10 percent of transit riders, nearly 65 percent of elderly riders are women, compared to 58 percent in the population generally.

There are substantial differences in how transit riders as a group use different transit modes. Women make far more bus trips than men, though fewer subway and train trips: 61 percent of all bus and light rail riders are women but they are only 48 percent of subway and heavy rail users, and 47 percent of commuter rail patrons. Both young and older people ride buses more often than those in the middle age groups but are less frequent riders of subways and commuter trains.¹¹⁷ Those aged 26 to 40 represented the largest number of transit riders and account for 45 percent of subway riders, 41 percent of train riders, but only 27 percent of bus users. The elderly made up 11 percent of bus riders, but only 3 and 2 percent of subway and commuter train riders, respectively. In short, subway and commuter rail use is more heavily skewed toward middle aged men than is bus travel, particularly for work trips, while women, young persons, and older persons, make up a larger share of bus and streetcar riders, especially in off-peak periods.

Women constitute a higher percentage of all trips as age increases, with the

¹¹⁷Pucher and Williams (1992). In 1990, young persons constituted about 13 percent of bus riders but only 4 percent of subway and 1 percent of commuter train patrons. Those over 65 years of age, made only 6.5 percent of all bus trips but used subway and rail service for only about 3 percent of all trips by those modes. On the other hand, sixteen to 40 year olds favored subways and commuter rail, while those between 40 and 65 years of age were more or less equally represented on all three modes.

exception of work trips. As would be expected, men and women aged 21 to 65 account for the vast majority of work trips. Adult men make more than half of transit work trips and are more likely to use transit for work purposes. Naturally, more transit trips taken during morning and evening rush hours are likely to be for work purposes than other types of trip.

Most transit work trips employ buses, but subways and commuter trains are used much more heavily for work trips. In 1995, over half of all transit work trips employed buses and 30 percent were by subway, while less than 17 percent took commuter trains. Yet, while work trips amounted to less than 30 percent of bus trips, they represented about half of subway trips and over 60 percent of commuter train trips. Thus, while only a small number of all work trips use transit, commuter rail use is predominately work-related. Though men account for more transit work trips overall, women account for more work trips by bus.

Throughout the day, family/personal trips make up the next largest category, followed by school/church trips and those for social/recreational purposes. Trips to school or church account for about 13 percent of transit trips. Young riders dominate school and church trips, while social/recreational trips are more evenly distributed. Women make far more transit trips than men for family and personal reasons in nearly all age categories, overall accounting for over 68 percent of all such trips, and almost 53

percent of social and recreational trips taken by transit.

Ridership by Income

Not surprisingly transit riders are poorer than the general population. About 11 percent of the population live in households earning under \$15,000 per year, while another 20 percent make between \$15,000 and \$30,000 per annum, but 27 percent of transit users come from the lowest income households, and 22 percent from the next lowest. In contrast, only 6 percent of transit riders earn over \$80,000 yearly compared to 10 percent of the population as a whole.

Nearly one-third of those riding buses and light rail fall in the under \$15,000 annual household income category and over half in the under \$30,000 bracket, compared to only 10 percent for those making over \$50,000. In contrast, those in the lowest grouping make up only 16 percent of subway riders while 26 percent of are in the highest income category. Just 13 percent of commuter rail users were low income but those in the highest grouping were 35 percent of commuter rail riders.¹¹⁸

In 2001, transit use declined for all income groups, across all modes, with the

¹¹⁸Pucher (1998), p. 20, Exhibit 4.

exception of the highest income subway and commuter train riders, where usage actually increased slightly. The most dramatic difference from the 1995 survey was the substantial increase in the number of subway and commuter train riders in the inflation-adjusted highest income category. Forty-two percent of train riders have household incomes over \$100,000 and over sixty percent earn above \$75,000.¹¹⁹

Ridership by Race/Ethnicity

Clearly, lack of income is a major determinant of difference in transit use, but it is important to note that, even controlling for income, minorities, particularly African Americans, still make use of transit more any other socioeconomic group.¹²⁰ To the extent that public policies over the decades have supported segregation, racial discrimination, and urban disinvestment, race also plays a significant independent role in lack of access for poor and minority persons to adequate public transit to carry them to work, school, medical care, and other important locations.

Over all, nearly two-third of transit riders are people of color, compared to just 28 percent of the general population in metropolitan areas. African Americans make up 29

¹¹⁹Pucher & Renne (2003), p. 61. The authors conclude that metro and commuter rail use is increasing among the affluent but falling among the poor.

¹²⁰Pucher, Hendrikson, and McNeil (1981), Tables VI and VII (from 1977 NPTS data).

percent of riders, though they account for just 14 percent of all persons. Hispanics are the next largest group at 14 percent of transit users versus 10 percent overall, followed by Asian Americans who represent a bit over 3 percent of the transit base but just under 3 percent of the population. Non-Hispanic whites make up only 34 percent of all transit riders but 71 percent of the metropolitan population nationwide.

By mode, roughly 69 percent of bus trips and 62 percent of subway trips are by nonwhite riders, but less than half of those by commuter rail (see Table 3.2).¹²¹ Half of all bus riders are African Americans, as are 35 percent of subway riders and one-quarter of those taking commuter trains. Hispanics account for about 13 percent of bus riders, 16 percent of subway riders, and 15 percent of commuter rail users. In contrast, Asians made up four percent of subway and train riders, and about three percent of bus users.¹²² Although only 34 percent of all transit riders are white, whites make up over half of all those patronizing commuter trains, but just 38 percent of subway riders and only 30

¹²¹In this survey, respondents were asked to identify both whether they were of Hispanic origin or not, and to state their race as White, Black, Asian or Other. The race/ethnicity categories used in the following tables are a composite of replies to these two questions. All African Americans and Asians were counted as such without regard to Hispanic origin, while whites and other races with Hispanic origins were classified as Hispanic. For convenience only, all non-Hispanic whites are referred to as White and all other groups are classified collectively as Minority. In all, 28 percent of all persons living within MSAs came from households that could be considered minority, either African American (13 percent), Asian (3 percent), Hispanic (9 percent) or non Hispanic other (1 percent).

¹²²Similar result were obtained by Pucher, Evans, and Wenger (1998), p. 25, Ex. 8.

percent of bus users.¹²³

Table 3.2. Transit Mode Split by Household Race/Ethnicity, 1995 (Millions)

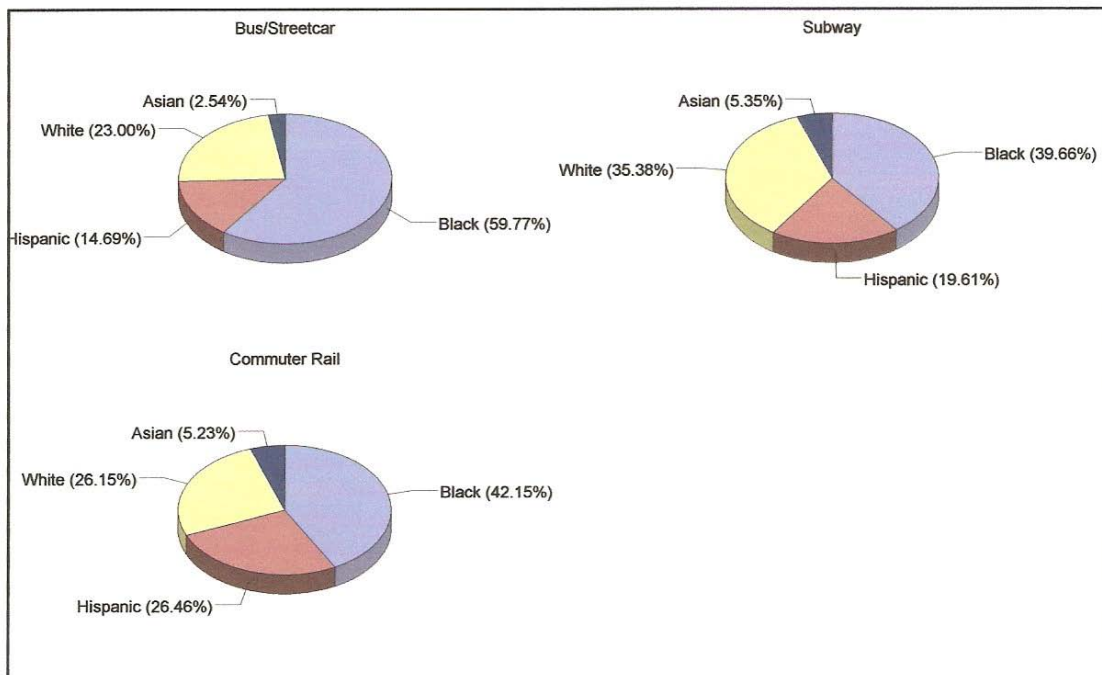
	NH White	African American	Asian	Hispanic	All
Bus	1,305	2,154	127	575	4,316
	0.6%	6.2%	1.8%	2.2%	1.5%
	30.2%	49.4%	2.9%	13.3%	100%
	(60.0%)	(76.6%)	(58.8%)	(63.9%)	(67.7%)
Subway	544	501	62	232	1,427
	0.3%	1.4%	0.9%	0.9%	0.5%
	38.1%	35.1%	4.3%	16.3%	100%
	(25.0%)	(17.8%)	(28.7%)	(25.8%)	(22.4%)
Commuter Train	327	158	27	93	629
	0.2%	0.5%	0.4%	0.4%	0.2%
	52.0%	25.1%	4.3%	14.8%	100%
	(15.0%)	(5.6%)	(12.5%)	(12.5%)	(9.9%)
All Transit	2,176	2,813	216	900	6,373
	1.1%	8.1%	3.1%	3.4%	2.2%
	34.1%	44.1%	3.4%	14.1%	100%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

Source: 1995 NPTS. Row totals reflect include trip values where race/ethnicity was not ascertained and include those classified as other race/ethnicity.

¹²³Some caution may be in order in interpreting the data inasmuch as African American and Hispanic households were somewhat under-represented in the survey sample. While the data were weighted so that the totals more closely matched the distribution of the actual U.S. population, it is not so clear that the surveyed minority households are entirely representative of the actual minority population. Zmud and Arce (1999) suggest that the surveyed minorities are likely to more closely resemble white riders than the population as a whole and that therefore differences in ridership patterns between minorities and non-minorities are actually understated. Given that many larger cities with fairly well developed transit systems, such as Los Angeles, New York, Chicago and San Francisco, have high concentrations of poor and minority residents, the effect of this undercounting may be even more significant.

Minorities also account for a larger proportion of urban transit trips than those in suburbs or outside major cities. Two-thirds of all metropolitan transit trips are in urban areas, as defined by the U.S. Census, while another 16 percent are suburban. Minorities constitute nearly three-quarters of urban transit users, but less than half of suburban riders. There are also significant differences in ridership by transit mode. As shown in Figure 3.1, African Americans make up nearly 60 percent of urban bus riders and about 40 percent of subway and train riders. Hispanics represent 15 percent of bus patrons, 20 percent of subway riders, and just over one-quarter of train users. Higher transit use by minorities overall may be due, at least in part, to the fact that people of color are more likely than the white population to live in urban areas (due perhaps to employment and housing discrimination) where transit services are more available. Nevertheless, transit policies that reduce service in urban areas, particularly bus service, could have a disproportionate impact on minority users compared to whites.

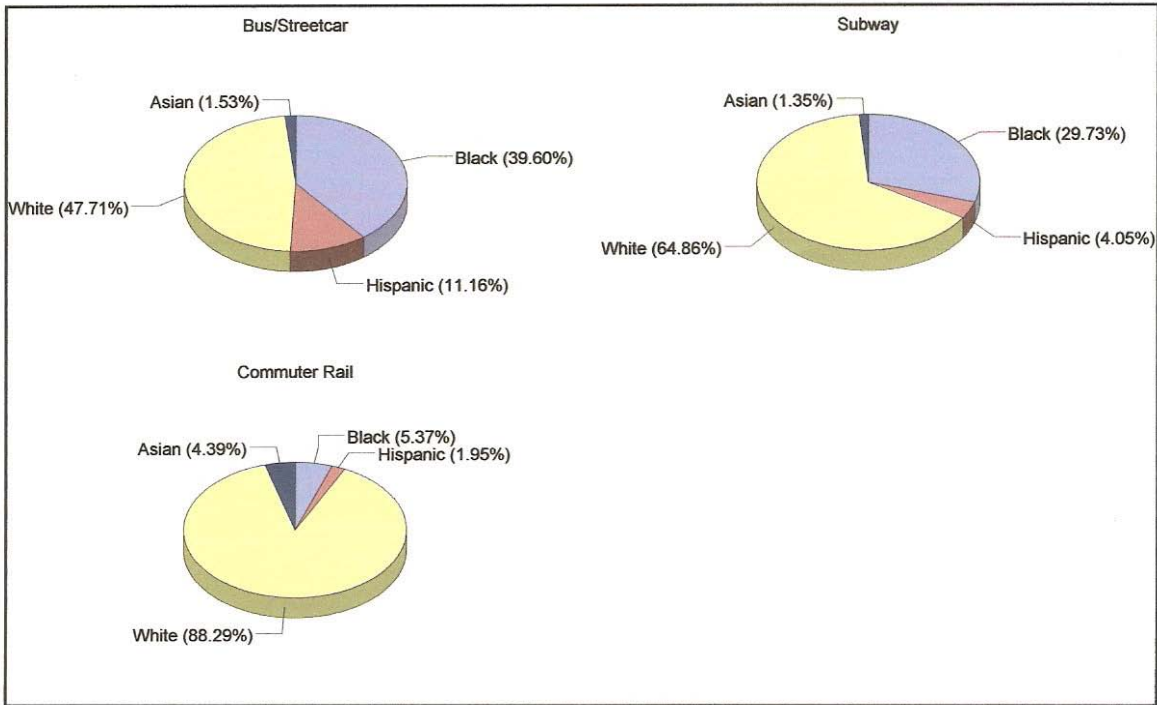
Figure 3.1. Urban Transit Ridership by Race/Ethnicity



Source: 1995 NPTS.

In contrast to urban areas, less than one-third of all transit users in the suburbs are African American, and less than ten percent of Hispanics (see Figure 3.2). Over half of suburban bus riders are minority but whites account for 64 percent of subway riders and 89 percent of commuter train patrons. Here again, policies that shift investment toward suburban transit service, particularly subway and commuter rail, may benefit white riders as a group, relative to blacks, Asians and Hispanics.

Figure 3.2. Suburban Transit Ridership by Race/Ethnicity



Source: 1995 NPTS.

Given the disproportionate number of people of color among low income persons, it is perhaps also not surprising that transit use is both heavily concentrated among both poor and minority groups. But low income transit riders are much more likely to be minority persons than in the population generally. Indeed, the transit population is disproportionately minority regardless of income. Three-quarters of low income transit riders are minority compared to less than half of all low income households and 28

percent of the general population (see Table 3.3). Minorities are also over represented in the higher income classes, though less markedly so. About one quarter of riders in the uppermost income category are minority versus 15 percent in the population as a whole. In contrast, over 80 percent of households in the highest income grouping are white, but whites make up only 73 percent of transit riders in this income category.

Comparing white and minority transit riders, Asian American transit riders have higher income profiles than Hispanic and African American transit users, though less than non-minorities. Among African American transit users, 34 percent fell into the lowest income category compared to 33 percent of Hispanic transit riders, 23 percent of Asian American riders, and just 17 percent of white transit users. For comparison, about 11 percent of the population live in households earning under \$15,000 per year, while another 20 percent make between \$15,000 and \$30,000 per annum. Approximately 29 percent of all households earn over \$50,000 annually but only 10 percent earn over \$80,000. Only 2 percent of minority riders came from the highest income households, whereas over 19 percent of white riders did.

Thus, transit use among minorities is skewed toward lower income persons, while the opposite is the case for whites, whose transit use is slightly skewed toward those in the upper income brackets. The differences are even more pronounced comparing men and women as 36 percent of white men are in the over \$50,000 category compared to 27

percent of white women but only 9 and 8 percent for minority men and women, respectively. On the other hand, 36 percent of minority women are in the lowest income category versus 26 percent of minority men. The figures for white women are 20 percent and white men 14 percent. To put this into perspective, low income minority women far outnumber minority men on transit, who in turn outnumber both low income white women and white men. By contrast, upper income white males far outnumber high income white females, who in turn exceed both high income minority men and women.

Table 3.3. Transit Use by Household Race/Ethnicity and Income, 1995 (Millions)

	NH White	Minority	African American	Asian	Hispanic	All
Less than \$15,000	364	1,327	943	49	293	1,705
	16.7%	32.4%	33.5%	22.6%	32.6%	26.7%
	21.3%	77.8%	55.30%	2.9%	17.2%	100%
\$15,000 to \$29,999	337	1,014	696	29	262	1,398
	15.5%	24.7%	24.7%	13.4%	29.1%	21.9%
	24.1%	72.5%	49.8%	2.1%	18.7%	100%
\$30,000 to \$49,000	421	653	429	79	108	1,081
	19.3%	15.9%	15.2%	36.4%	12.0%	17.0%
	38.9%	60.4%	39.7%	7.3%	10.0%	100%
\$50,000 to \$79,000	421	250	175	8	52	674
	19.3%	6.1%	6.2%	3.7%	5.8%	10.6%
	62.5%	37.1%	26.0%	1.2%	7.7%	100%
\$80,000 and over	268	94	34	15	37	368
	12.3%	2.3%	1.2%	6.9%	4.1%	5.8%
	72.8%	25.5%	9.2%	4.1%	10.1%	100%
Total	2,179	3,338	2,815	217	899	6,375
	100%	100%	100%	100%	100%	100%
	34.2%	64.3%	44.2%	3.4%	14.1%	100%

Source: 1995 NPTS. Note: All trips within MSAs of 75 miles or less. Row totals include those persons classified as non-Hispanic Other and where race or ethnicity could not be ascertained. Column totals include persons for whom income could not be ascertained.

The effect is particularly evident if we look at transit use by mode. Again, this may reflect the fact that the poor, both with and non-white, and minority populations tend to be spatially concentrated in central city areas, where bus services are available whereas upper income whites are more likely to live in the suburbs, which are more likely

to be served by rail. The following figures show the distribution of transit trips by both race/ethnicity and income separately for buses, subway, and commuter rail. Data are grouped by annual household income into Very Low (less than \$15,000), Low (\$15-30,000) , Middle (\$30-50,000) and High (over \$50,000). While whites still account for a higher percentage of commuter rail and subway riders than bus riders, these differences have been declining due to reduced income differences between riders by transit mode.¹²⁴

Bus and streetcar use decline with income for minorities, but is relatively constant across all income groups for non-Hispanic whites. In all but the highest income category, minority riders make up a majority of riders. For subway trips, ridership increases with income for white riders, while more minority riders are low-income. Overall, minority riders predominate except among the highest income category. The picture is quite different for commuter train use. Ridership increases modestly by income among minorities, but falls off at higher incomes. In contrast, while lower income riders are predominately minority, the vast majority of white riders are in the highest income group.

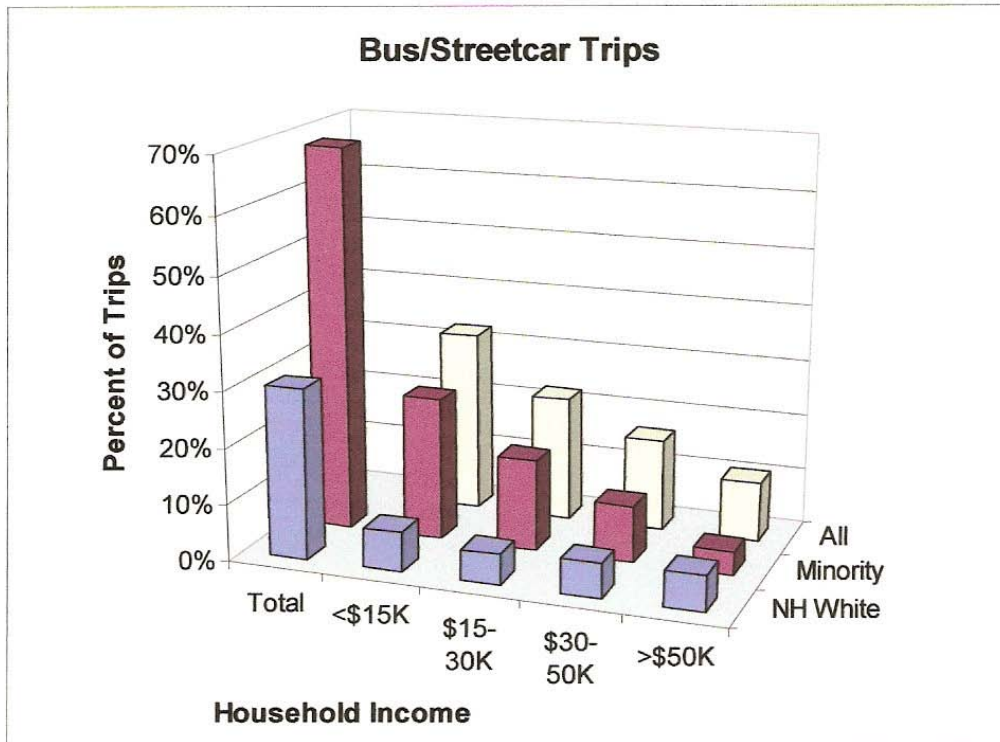
Generally speaking, minorities and lower income people take a higher proportion of their transit trips, particularly subway and train trips, in the off-peak time periods than either whites or higher income travelers. African Americans make up a higher proportion of public transit riders on all modes, especially on commuter rail and subways,

¹²⁴Pucher, Evans and Wenger (1998), p. 26.

during off-peak hours, while whites, and Asians make up a higher percentage of peak period travel. On the other hand, those making over \$50,000 a year take roughly twice as many peak transit trips of all types than off-peak. Results from the 2001 NHTS are comparable.¹²⁵

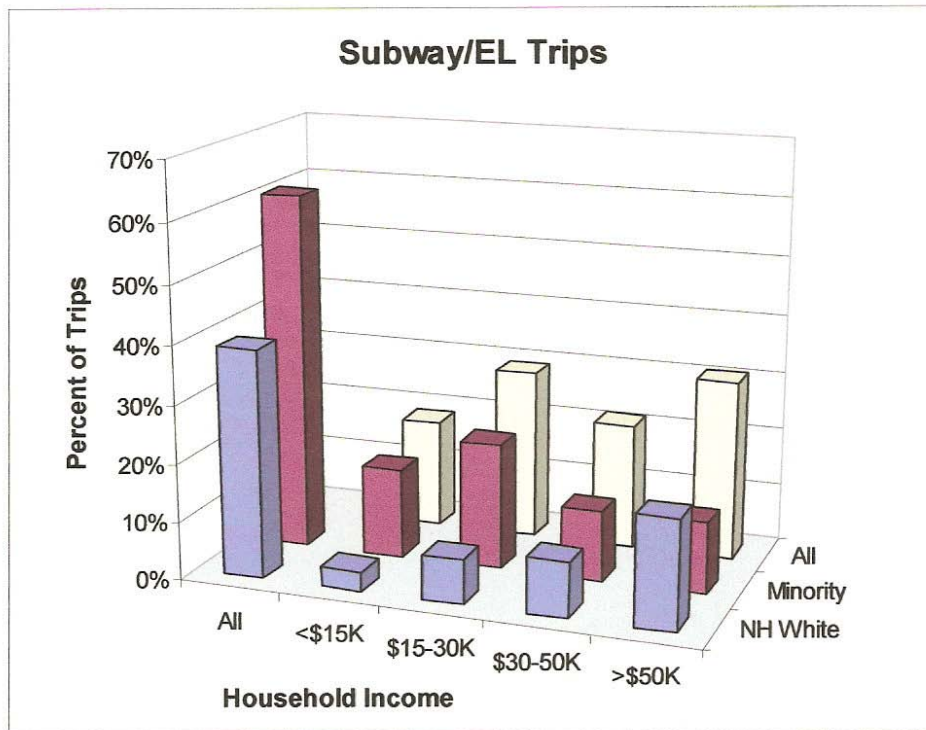
¹²⁵Pucher & Rene (2003), p. 66, Table 12.

Figure 3.3. Bus and Streetcar Trips by Race and Income by Mode, 1995



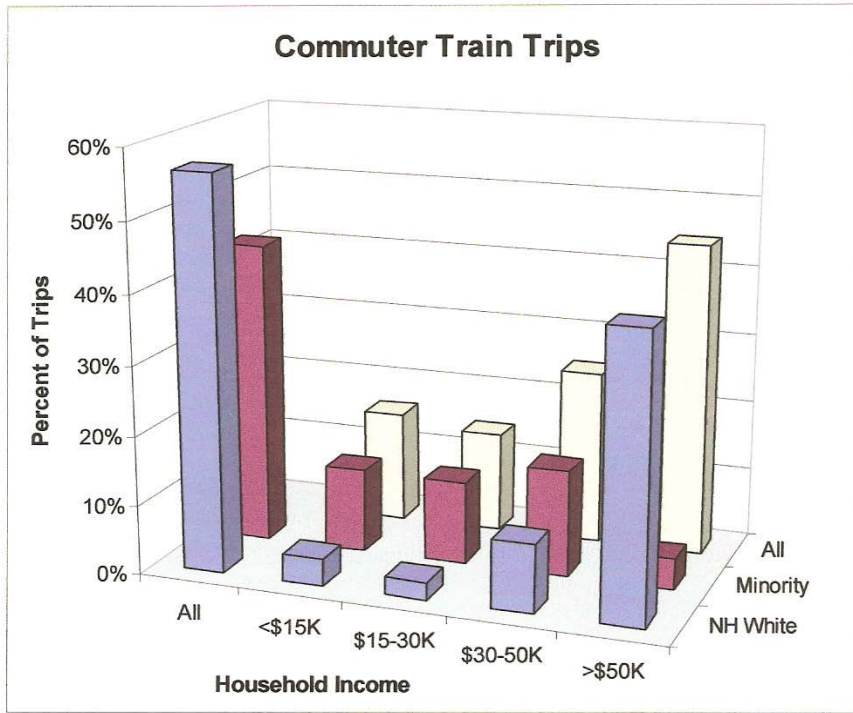
Source: 1995 NPTS.

Figure 3.4. Subway Trips by Race and Income by Mode, 1995



Source: 1995 NPTS.

Figure 3.5. Commuter Train Trips by Race and Income by Mode, 1995



Source: 1995 NPTS.

In summary, there are significant differences in transit use nationwide between the sexes, and different age, racial, ethnic, and income groups, by mode, trip purpose, and time of travel. There are also differences *within* groups as, for instance, income effects may be more or less significant for men as a group, than for women, or for minorities versus non-minorities. The effects are also *cummulative*, so that transit use, particularly bus use for off-peak, non-work trips, is highest among inner city poor, women of color whereas middle income, suburban white males are most likely to use transit, primarily rail, for rush hour commuting. It is important therefore to see these differences in transit use by different categories of riders in combination, and not merely in isolation from one another.

Again, caution is in order as these data are based on a nationwide survey, which is significantly influenced by a few large urban areas, so the patterns are quite likely to be different in individual cities. Ridership data collected on the Los Angeles Metropolitan Transit Authority bus, light rail, and commuter rail lines (see Chapter Nine) are generally similar to the national patterns. In any event, they are nevertheless indicative of the wide differences in transit use by and among different groups of riders. To the extent that transit policies favor certain types or patterns of travel, they may generate positive benefits for certain groups and have negative impacts on others who do not fit the mold. Given that rail development seems a poor match for those who most depend on public transit, why is it that policy makers have chosen to pursue it so strongly. The next section

examines some potential explanations, and critiques some of the common rationales given in support of these policies.

Transit Policies

The demographic shifts within transit modes described above reflect a polarized transit system characterized by differences in race, ethnicity, income, and location. Urban inner city residents, who on average are much poorer and more often from minority groups than the general population, rely far more on buses and subways, while suburban commuters are more likely to be white, comparatively well-off, and more likely to use express buses and commuter rail. These are a product of the spatial restructuring of urban areas discussed in Chapter Two which in turn suggests that geography and politics have played a key role in Congressional and local support for rail development. As already noted, initial support for federal transit assistance in the 1960s was partly motivated by a desire to transfer funds to urban areas under the guise of urban renewal.

Given that both transit ridership and low-income transit dependents are concentrated in central city areas, we might expect that transit providers would target more resources to improving central city bus service on both efficiency and equity grounds. But transit agencies, by and large, have shown more concern recently with

attracting riders out of cars than with serving the needs of those who due to age, poverty or disabilities, must depend on public transit. This dissonance is a function of the diverging spatial logic shaping the demand for transit service (which favors high-density, low-income areas) and the spatial logic guiding the subsidization of transit service (which favors lower-density, higher income areas).

There is a growing tension between meeting the strong demand for transit services by predominately low-income and minority inner-city residents on the one hand, and accommodating the political interests and desires of a more mobile, wealthier, dispersed, and largely white, suburban-based electorate on the other. More and more, transit subsidy policies favor investment in suburban transit and expensive new commuter bus and rail lines to attract more of these "discretionary" commuters.¹²⁶ Such efforts have collectively proven expensive and only marginally effective in increasing ridership. At the same time, comparatively less attention and resources have been devoted to improving well-patronized transit service in low-income, central-city areas serving a high proportion of transit dependents.

¹²⁶Not only is capital spending higher for suburban systems, but fare structures promote cross-subsidization of wealthier riders by poorer ones. Typically, higher income persons are less sensitive to price changes than are lower income people. With respect to transit fares, however, this relationship is just the opposite. With fewer available alternatives, low income riders are *less* sensitive to fare increases than higher income riders who can often choose to drive rather than pay higher fares. As a result, transit fares, on a per mile basis, tend to be lower on commuter and suburban transit systems than on central city bus systems in order to attract and retain discretionary commuters. In Los Angeles, for example, the base local fare on the central city system is \$1.35, compared to 75¢ on the suburban Santa Monica system and Culver City systems.

Transit Subsidies

In spite of the trends in ridership demographics (or perhaps because of them) transit systems around the U.S. have devoted substantial resources in recent years to building and operating commuter-oriented bus and rail services in an attempt to appease more affluent constituencies and lure middle-class riders back from automobiles. During the past two decades, over a dozen new rail transit systems have been constructed, mostly in lower-density, more auto-oriented cities like Miami, Portland, Sacramento, and San Jose. These costly new systems, designed primarily to bring passengers from outlying areas into downtown central business districts (CBDs), have required substantial public subsidy and have tended to attract far fewer new riders than expected.¹²⁷ A number of factors -- growing traffic congestion, public ambivalence toward further metropolitan highway construction, and heightened environmental awareness -- have all contributed to a political base of support for this type of public transit.

In their 1981 study of public transit ridership, Pucher et al. found that while the poor, the elderly, minorities, and women comprised a much higher percentage of bus ridership than of subway ridership, and a higher percentage of subway ridership than of commuter rail ridership, the transit modes most used by these groups were also the least subsidized modes:

¹²⁷Pickrell (1983); Pickrell (1992).

The average per-passenger operating subsidy to commuter rail in the United States is almost three times as great as that to bus service. Differences in capital subsidies by mode are even more to the disadvantage of bus riders.¹²⁸

The authors argued that service policies such as flat fare structures discriminated against these groups by forcing them to cross-subsidize the more costly trips of the non-poor, non-minorities, non-elderly, and men.¹²⁹ As they put it:

Not only are the specific transit modes most used by transportation-disadvantaged groups the least subsidized, but transit service at the specific times, locations, and distances most common among these groups tends to be far less subsidized than it is at other times, locations, and distances.¹³⁰

These patterns have only grown more pronounced in the intervening years.

¹²⁸Pucher, Hendrickson, and McNeil (1981), p 481.

¹²⁹Pucher, Hendrickson, and McNeil, (1981), pp. 461-483.

¹³⁰Pucher, Hendrickson, and McNeil, (1981), p. 482.

The Politics of Public Transit

There are a number of possible explanations for this shift in policy, including: (1) a public clamoring to reduce traffic congestion, (2) legal mandates to improve air quality, (3) inter- and intra-metropolitan competition for limited fiscal resources, and (4) a changing political landscape that makes it more difficult to implement redistributive social programs. As a result of these factors, transit planning and policy has been characterized by a shift in emphasis from local to commuter service, from bus operations to rail development, and from inner city to suburban riders.

Many transit operators are under political pressure to provide service to suburban areas in order to maintain public support for transit, even at the cost of increasing fares or cutting back on service to more transit dependent communities. In some cases, operators are constrained by legal mandates requiring new rail construction or guaranteeing service to certain areas. Clearly, politicians have been attune to the shift in the political center of gravity from central cities to the suburbs and the political value of rail transit projects aimed at serving suburban commuters.

Given the overwhelming domination of private vehicle use in most metropolitan areas, even substantial increases in transit use would be unlikely to significantly reduce suburban traffic congestion. As noted above, since the 1980s public transit s share of

overall metropolitan commuting (both central cities and suburbs) had continued to decline to less than 5 percent of all journey-to-work trips. Thus, even doubling the share of transit commuters would at best make only a small dent in reducing automobile travel.¹³¹ Moreover, the share of metropolitan jobs located in central business districts is on a long declining trend, making radial, downtown-centered transit systems attractive to fewer and fewer commuters over time.

There is also no guarantee that the road space freed up by former auto travelers attracted onto buses and trains will not be replaced by other travelers. This phenomenon, known as the latent demand for travel, is part of what Anthony Downs calls the triple convergence of drivers from (1) other routes, (2) other times, and (3) other modes on to newly uncongested roads.¹³² If transit systems succeed in snaring a substantial share of former auto users, congestion could decline noticeably in the short-term. But other automobile travelers, those who have chosen to avoid the previously congested routes and rush hours, will quickly be attracted onto the less crowded roads and times thereby diminishing the congestion benefit of higher transit use.¹³³ Systems such as San

¹³¹Downs (1992); Downs (2005).

¹³²Downs (1992); downs (2005).

¹³³The San Francisco-Oakland Bay Bridge corridor is an excellent example of this phenomenon. While the opening of the transbay tube under the bay attracted large numbers of former auto and bus travelers, the congestion reductions on the Bay Bridge following the addition of BART proved fleeting. Congestion levels quickly returned to, and then eventually exceeded pre-BART levels. While it is possible that congestion today might be substantially worse had BART not been built, it is also unlikely that so many people would choose to work in downtown San Francisco and live in the far flung suburbs of Alameda and
(continued...)

Francisco's BART and Los Angeles Metrorail/Metrolink may make it easier to commute to the CBD without a car but they also make it easier to live farther away and still work downtown.¹³⁴ In fact, some argue that radial transit systems may increase congestion in some situations by encouraging downtown development and thereby attracting other commuters onto already congested highways.¹³⁵

As noted in Chapter Two, heightened public concern of over air pollution has also focused attention on the role transit can play in reducing auto travel and thereby lowering exhaust emissions.¹³⁶ Federal clean air and surface transportation legislation have been integrated in recent years to bring about reductions in motor vehicle emissions. Many air quality plans in federal non-attainment areas, including those for the Southern California region, call for reducing automobile use. Even though most air quality forecasts suggest that public transit will make very small contributions to air quality,¹³⁷ transit systems are nonetheless charged with the task of attracting automobile drivers onto

¹³³(...continued)
Contra Costa Counties to the east.

¹³⁴Webber (1976).

¹³⁵Downs (1992).

¹³⁶Garrett and Wachs (1996).

¹³⁷Bae (1993).

public transit on air quality grounds.¹³⁸ Transit policy is therefore geared to providing incentives to reduce the number of single occupant vehicle (SOV) trips. To compete with private automobiles, transit operators must offer drivers substantial incentives, since these automobile commuters tend to have higher incomes and more travel options than transit dependents. Providing high quality alternatives to the automobile typically entails expensive public investments in new suburban-based fixed rail or express bus service that tends to raise the overall costs of transit service and which can lead to pressure for fare increases or service reductions, both of which may result in lower ridership overall.

Beyond air quality and congestion concerns, large public works projects have always been popular with elected officials and voters, and transit investments are no exception to this rule. Cutting ribbons to open new rail transit lines get elected officials and transit agencies media attention, reducing headways on existing bus service generally does not. Declining transit use also threatens transit agencies' political claims on public resources. As transit agencies have increasingly turned to local voters for financial

¹³⁸There is credible evidence that the air quality benefits of public transit are not measurably better than automobiles. Bae (1993) found in a study of transportation and land use measures in Los Angeles designed to achieve the air pollution emission reduction targets of the 1991 Air Quality Management Plan (AQMP), that measures aimed at reducing vehicle miles traveled would have only a modest impact on reducing air pollution and that more transit use is not necessary to achieve clean air objectives. According to regional planning forecasts cited by Bae, the then current \$150 billion bus and rail improvement plan for the region would only achieve a 10 percent work trip transit share by 2010, not the 19.3% share outlined in the AQMP. All mode shift strategies combined (transit investments, ridesharing incentives, alternative work schedules and job-housing balance strategies) would account for only a 0.9 percent decrease in reactive organic gases (ROGs), a 2.0 percent decline in nitric oxides (NOx) and a 4.3 percent drop in carbon monoxide (CO) emissions.

support in recent years,¹³⁹ the focus on large transit capital projects has only heightened. For instance, when asked to approve county sales tax increases for transportation, voters in California and elsewhere have shown a clear preference for major capital investments over increased funding for planning, operations, or maintenance.¹⁴⁰

The general preference for large capital investments, concern over urban traffic congestion and air quality, and the lack of public consensus on what to do about it has led many public officials to embrace rail transit as a clear and dramatic alternative to the automobile/highway system. Richmond examined the popularity of rail transit among elected officials in Los Angeles and found that their support for rail transit was due more to positive, highly symbolic perceptions of trains than to any expert analyses or other direct evidence on the wisdom of rail transit investments.¹⁴¹

The policy choice to favor new rail construction is reinforced by the overall spatial logic of federal and state regulations, which is to spread transit funds to voters on a roughly geographical basis rather than in accordance with transit use or need. And since the transit subsidy allocations are based on fixed characteristics such as population, density, and existing service, eligible areas do not need to compete directly for these

¹³⁹TCRP (1997); Taylor (2004).

¹⁴⁰Zell (1989); Goldman & Wachs (2003).

¹⁴¹Richmond (1991); Richmond (1997); Richmond (2005).

funds. Therefore, each service area has an incentive to apply for and expend the full amount available regardless of any regional planning rationale to the contrary. The combination of federal funds for new rail starts and dedicated local and state transportation funding programs often produce politically powerful constituencies for rail development, even in situations where it fails to satisfy either the usual social equity or economic efficiency rationales. Rail is championed more frequently for its ability to stimulate local economic development than from any transit planning rationale.¹⁴² Local business and civic interests that benefit from publically-funded construction projects can be expected to lobby hard for a share of the funds made available.

Finally, it is important to recognize that transit dependents do not represent a strong constituency for improved bus service since fewer poor and minority persons are registered to vote, and are less likely to vote, compared to suburban residents. In addition, many urban transit users (especially in areas like Los Angeles) may also be new immigrants or undocumented persons and unable to vote.¹⁴³

Voters who might support higher transit spending are increasingly located in newer, auto-oriented cities and suburbs. But since most transit *riders* have disproportionately low incomes, public spending on transit riders tends to redistribute tax

¹⁴²Richmond (1991).

¹⁴³Meyers (1996).

revenues from wealthier to poorer persons, and from suburbs to cities. In recent years, voters have clearly grown increasingly resistant to explicitly redistributive policies and programs, which does not argue for highlighting public transit's emerging role as a largely redistributive social service. Hence, transit operators often downplay this aspect of public transit subsidies in light of the declining popularity of explicitly redistributive fiscal policies, emphasizing instead its advantages in reducing traffic congestion, improving air quality, and stimulating economic development.

Transit providers thus have a strong political incentive to make transit service more attractive to suburban and discretionary riders in order to maintain broad public support for transit.¹⁴⁴ At a policy level this means providing wider service area coverage by shifting resources to new lines to capture additional riders. Consistent with the new suburban electoral majority, it also means focusing on improving the suburb to downtown work commute. In short, to secure popular, political, and financial support for their systems, transit operators and funding agencies must balance the demand for local service in high ridership central city areas, against the service preferences of suburban residents who tend to favor commuter transit systems. From an operational standpoint, these trends are particularly problematic since the total per passenger subsidies needed to operate these new suburban lines are typically much higher than those for inner city buses. While providing larger subsidies to certain lines or modes in an effort to attract

¹⁴⁴Wachs (1985); Wachs (1989).

new riders may make sense politically, such policies tend to decrease both efficiency *and* equity because low-income, central city riders are, on average, less costly to serve than suburban commuters. Research has consistently shown that the poor actually require lower subsidies per rider than do wealthier patrons.¹⁴⁵ Moreover, the small number of new riders brought onto the systems are often exceeded by the loss of existing ridership brought about by increased fares and the reduced quality of bus service.¹⁴⁶ Declining revenues and increasing costs place even greater pressure on transit operators to either cut existing bus service or raise fares, further exacerbating these disparities.

Given all these factors it is not surprising that many transit systems have responded by directing their planning efforts toward expanding suburban commuter services over improving local operations and increasing rail service over buses, despite the shift in demand towards an increasingly poor ridership base. The combination of federal transportation funds for new rail projects and dedicated local and state funding programs have produced a natural political constituency for rail development, even in situations where it fails to satisfy either the usual social equity or economic efficiency rationales. The pressure to appeal to discretionary riders (who vote in larger numbers) over transit dependents (who do not) also favors capital intensive investments, like rail transit, that need heavy ridership to be cost effective, though fewer and fewer urban areas

¹⁴⁵Hodge (1995); Pucher, Hendrickson, and McNeil (1981); Pucher (1981); Pucher (1983).

¹⁴⁶Rubin and Moore (1996).

have sufficient residential and employment density to generate the required level of patronage. As noted above, the result of this tension has been an increasing dichotomization of transit service and subsidies between those lines and systems serving more higher-income riders at substantial public subsidy on the one hand, and those serving mostly poor, minority riders at substantially lower public subsidy on the other. Unfortunately, these implicit tradeoffs between transit dependents and discretionary users are rarely spelled out in the usual debates between bus and rail investment. Whatever the causes or explanations, the dichotomy created between improved service aimed at wealthier suburban riders and declining service for transit-dependent, mostly minority populations has clearly resulted in increasing gender, racial, and economic inequality both within and between public transit systems.

Conclusion

The essence of the Fourteenth Amendment is that all persons are entitled to receive *equal treatment* under the law. As Thurgood Marshall expressed it in his oral argument before the Supreme Court in *Brown*, that means getting the *same* thing, at the *same* time, and in the *same* place.¹⁴⁷ In this part we have seen that as the transit industry grew and evolved from a private enterprise serving mostly wealthy individuals, to a publicly

¹⁴⁷Bauerlein (2003), p. 123, emphasis in original.

financed and operated social service. We have also seen how poor people and people of color have had to struggle to secure rights to equal access. But just because everyone can now ride the cars doesn't mean that everyone receives the same level of service. To put it another way, the struggle has shifted from access to accessibility. Given the spatial and temporal nature of transit service, policies that favor *different* levels of service at *different* times, and in *different* places will inevitably benefit some classes of people to the detriment of others. Planners should become more attune to this reality.

Part II of this dissertation examines the history of public transit in Los Angeles, which in many respects, follows the broad outlines described in Chapter Two. The patterns of transit use here also mirror by and large those of the nationwide data presented above. Los Angeles is also an prime example of how local dynamics merged with political and economic forces at the national and state level initially to undercut efforts to preserve public transit service and later to redirect transit planning toward the development of expensive high speed rail projects at the expense of more affordable and effective public bus service.

PART II: THE HISTORICAL GEOGRAPHY OF TRANSIT IN LOS ANGELES

CHAPTER FOUR: TRANSIT S EARLY YEARS THROUGH POST-WAR DECLINE, 1873-1964

Transportation issues in Los Angeles, particularly public transit, are embedded in the unique way that Los Angeles grew as a city and a region. Transportation was critical to that process as it was in other cities, however, the particular history of urban development in Los Angeles was quite different from eastern cities. Los Angeles developed later, and while rail transit played an important role in establishing the initial urban pattern, it was quickly superceded by the automobile. Rail transit, which dominated at the outset, gradually was eclipsed by rubber tired buses.

The history of transit in Los Angeles follows the broad outline of transit evolution in other cities as described in Chapter Two, but there are also some significant differences owing to the city s unique development history. As with other U.S. cities, transit began as a private enterprise largely tied to development interests, played an important role in the suburbanization of the region, fell into decline with the emergence of the automobile as the dominant mode of transportation, and was eventually taken over by the

government.

Unlike cities that developed populous urban cores prior to the advent of mass transit, however, downtown Los Angeles still occupied a relatively small area when transit arrived. Whereas eastern transit lines primarily served established inner-ring suburbs, transit lines in Los Angeles quickly opened up new far flung areas for development further from the urban core, and although the downtown remained the main center of business, it never achieved the size or density common to eastern cities. A conscious desire on the part of many residents and political leaders to see L.A. develop differently from older, industrial cities as a low density spread out metropolis created a tension between traditional downtown-centered interests and newer suburban businesses. As the region grew, this downtown-suburban conflict stalled numerous efforts to upgrade public transit in the region to meet the demand for greater mobility generated by the rapidly increasing population.

In the east, the spatial settlement patterns that grew around the electric transit lines were superimposed on the old walking city cores, which remained densely populated. But in Los Angeles, the transit car essentially wrote on a *tabla rasa*, and the result was an urban landscape far more de-centralized than the city's eastern counterparts. The key significance of this was that the central city never achieved the same degree of political and economic dominance that places like Chicago managed. Business interests and

residents in outlying areas frequently resisted what they saw as the hegemonic efforts of the downtown-centered growth machine. As a result, transportation proposals to improve access to the downtown often met stiff resistance, and the disputes frequently had overtones of class conflict, as well as involving divergent geographic and political interests.

Numerous proposals for publically-financed radial fixed rail systems over the years were doomed by well-organized opposition arguing that new rail lines would concentrate too much development in the downtown area and contribute to further congestion in the region. The automobile was seen as better able to reconcile the ongoing struggles between downtown and outlying political and economic interests.¹ The transit development that did take place in Los Angeles, was shaped more by economic and political geography than by the needs of transit riders. As a result, Angelenos have experienced a long history of dissatisfaction with transit in the region.

In the post war era, even while transit went into decline throughout the U.S. many eastern and midwest cities managed to retain at least some rapid transit lines. In contrast, despite having once had the largest rail transit system in the nation, by the early 1960s local streetcars and interurbans had disappeared entirely from the Los Angeles region. The remaining publically-owned bus systems served an increasingly poor and transit-

¹Bottles (1987); Wachs (1996).

dependent population. Within a decade, however, major efforts were underway to bring rail back to the Southland, taking advantage of federal dollars being made available for new construction, ironically as a promised solution to the worsening traffic congestion brought on by overbuilding roads and freeways, and the serious air pollution problems generated by so many automobiles. The proposed system of radial rail lines emanating from a renewed downtown nearly replicated the previous interrurban system line for line. Unfortunately, the changed social geography of Southern California and the changed demographics of most transit riders meant that the new (old) system was no longer suited to the needs of the majority of low income and minority urban bus riders, so much those of more affluent suburban commuters.

The Rise of Rail Transit in Los Angeles, 1860-1900

The City of Los Angeles was founded in 1781 by Spanish settlers as an agricultural settlement organized around a central plaza on the banks of the Porcinuncula River along the *Camino Real* (Royal Highway) between Mission San Gabriel and Mission San Fernando. *El pueblo de Nuestra Senora la Reina de Los Angeles* grew quickly, numbering 1,000 inhabitants by 1830. By 1835, when the pueblo became the capital of Alta California, its boundaries extended for only a short distance from the plaza, and most

of it was undeveloped.² When Los Angeles was incorporated in 1850, the same year California joined the Union, the town's population numbered about 1600, nearly all white but also almost all Latino.

Ownership of much of the land surrounding the City's four square Spanish leagues (about 28 square miles) was still in large cattle ranches. By 1860, there were already some 4000 residents and a new city center was developing south of the old Plaza near present-day Pershing Square.³ Following the orientation of the original plaza, streets were laid out along a northeast to southwest axis.⁴ As the young city grew, Mexican residents of Los Angeles, now about half the population, remained confined largely to the area, known then as Sonoratown, north of the Plaza toward Chinatown, roughly the site of the present Union Station. Chinatown, also called Hell Town, was home to about 200 persons at the time. In 1871, some twenty Chinese residents were killed there, and homes and businesses looted, by a mob of white rioters in the city's first reported outbreak of ethnic violence.⁵ As white business located to the south, fashionable

²MTA, Metro Rail Historical/Architectural Resources (undated). The original city was roughly a five mile square.

³Rolle (1995).

⁴The corners of the plaza were laid out on the cardinal points of the compass. Foglesong (1993). The original city, roughly five miles square, is still easily identified on a map of the area by its diagonal streets, contrasting sharply with the generally north-south, east-west orientation of the most of the rest of the streets in present-day Los Angeles and the surrounding county.

⁵Los Angeles Almanac, accessed at www.losangelesalmanac.com. The conflict apparently began after the accidental death of a white man.

Victorian style homes began to fill up the steep slopes of Bunker Hill to the west.⁶

Ranching gradually gave way to farming and after 1870 many of the large land holdings began to be subdivided and sold to new immigrants, mostly eastern farmers.⁷ In the 1870s, eastern railroad companies (Southern Pacific and the Atchison, Topeka & Santa Fe) brought rail lines into the city leading to a population explosion that eased only somewhat with the collapse of the real estate market in 1888. The railroads set the stage for the region's growth and development by connecting the city with Pacific Ocean ports and growing desert communities to the east. The opportunity was almost lost though, as the railroads initially favored a cutoff route running north of the San Bernardino mountains, that would have bypassed Los Angeles entirely.

Between 1869 and 1872, Phineas Banning, whose house is now a minor tourist attraction, built the Los Angeles and San Pedro Railway, occupying a 22-mile long right-of-way to carry passengers and freight to and from downtown and Wilmington where the city's port was located.⁸ Another rail line, the Los Angeles and Independence Railway, was completed to Santa Monica in 1874 by Senator John P. Jones of Nevada that was intended to join up with the Union Pacific Railroad, controlled by Edward Harriman.

⁶Rolle (1995).

⁷Foglesong (1993).

⁸Rolle (1995).

Jones owned 2/3 of the Rancho San Vicente y Santa Monica and had built a wharf there intending to ship ore from his Panamint Mine in Independence, California. Passengers debarking there from San Francisco could board his Los Angeles and Independence Railway, cutting 12 hours off the trip compared to going on to the terminal at San Pedro and taking the train to Los Angeles.⁹ By 1875 there were also lines to El Monte, San Bernardino and Anaheim.¹⁰ While lines such as these served local interests, the region was destined to remain a backwater unless it could be joined to the rest of the country by rail.

The first railroad to arrive in Los Angeles was the Southern Pacific Railroad (SP), lured by a \$600,000 subsidy from the city and the promise of control over Banning's line from Wilmington and Los Angeles.¹¹ The SP was begun in 1865 to build a line from San Francisco to San Diego, and controlled by men known as the Big Four: Colis P. Huntington, Charles Crocker, Leland Stanford, and Mark Hopkins, who together established the first transcontinental railroad link between San Francisco and the east coast.¹² By 1874, SP tracks had reached Bakersfield on route to Arizona through the San

⁹Myers & Swett (1976). A fare war ensued when the Southern Pacific took over the San Pedros line and Jones eventually sold his line to the SP, turning his efforts to his real estate ventures.

¹⁰Crump (1970a).

¹¹Rolle (1995).

¹²The Big Four founded the Central Pacific Railroad which began laying track over the Sierra Mountains and met the Union Pacific Railroad coming from the east at Promontory Point, Utah in 1869. The Central Pacific was merged into the Southern Pacific in 1885.

Joaquin Valley. In Los Angeles, local boosters arranged for the exchange when it appeared that the railroad would bypass the city entirely.

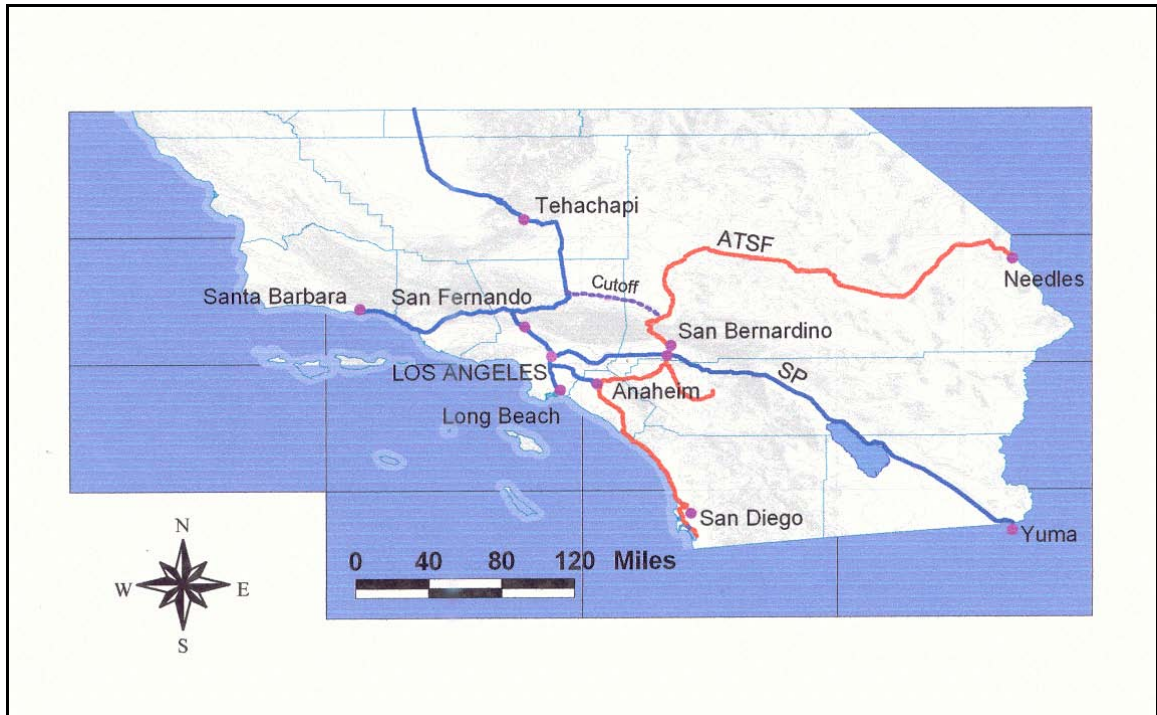
The SP completed its line south over the Tehachapi Mountains in 1876. Joining a line heading west from the city to near Mission San Fernando, it provided Los Angeles with a link to northern California, and by way of a line running east through Colton in San Bernardino County, on through the San Geronio Pass to Yuma, Tucson (1880), and El Paso (1881), finally crossing the Pecos River (1883) where it connected to lines running on to New Orleans (see Figure 3.6).¹³ This transcontinental rail link with the east coast brought scores of white immigrants to Southern California, and launched the region's first building boom. Land prices began to soar in anticipation of the expected immigration and from 1870 to 1880, and Los Angeles population doubled to around 11,000, though the number of Latino residents remained constant at around two thousand. A number of communities developed along these rail lines, including Pomona and Ontario. Watts, located South of downtown where the line to Anaheim branched off from the Los Angeles and San Pedro Railroad right of way, was founded in 1883 during the population boom following the completion of the Southern Pacific railroad connection. Originally known as Tujauata, the area was first settled by Mexican laborers employed by

¹³Meining (1998).

the company.¹⁴

¹⁴The railroads were the largest employers of Mexican laborers, especially the Southern Pacific. Griswold del Castillo (1982).

Figure 4.1. Rail Routes to Southern California



Boom Times

By 1885, the SP was joined by the Atchison, Topeka & Santa Fe (AT&SF) Railroad surging west from Needles through the Mojave Desert, over the Cajon Pass past San Bernardino, to Colton and Riverside. From there the line led south to San Diego, branching off before reaching Santa Ana for the trip to Los Angeles. The AT&SF connected the Orange Empire with the markets in Kansas City and agricultural produce

began to flow back east carrying with it advertisements for the region's temperate climate designed to attract new settlers pasted on fruit and vegetable baskets. By 1887, AT&SF tracks reached Inglewood and Port Ballona, site of a proposed harbor. When the harbor failed to materialize, the company shifted the line north to South Santa Monica (Ocean Park) in 1892, and constructed a dock and popular pleasure pier.¹⁵ Leery of potential competition, the Southern Pacific built a mile long wharf north of Santa Monica Canyon and pressed Congress to establish a deep harbor at Santa Monica Bay where it held a virtual monopoly over rail rights of way, but its plans were thwarted when in 1898 Senator Stephen White successfully arranged for the facility to be constructed at Long Beach instead.¹⁶

Numerous short line railroads were soon established by real estate promoters to take advantage of the surge in real estate sales. For instance, the Los Angeles Terminal Railroad built lines from Los Angeles south to Long Beach and north to Pasadena and Glendale.¹⁷ In 1886, I.W. Hellman and M.L. Wicks began work on a small rail line from the intersection of Beaudry and Bellevue (now Sunset Boulevard) near Sisters Hospital (now St. Vincent's at Alvarado and Third) in Los Angeles to Dr. Sketchley's Ostrich Farm in present day Griffith Park. In 1888, the line's new owners renamed the Los

¹⁵Myers & Swett (1976).

¹⁶Myers & Swett (1976).

¹⁷Crump (1970a). The line was purchased by U.S. Senator William A. Clark, who owned the Salt Lake Railroad, intended to connect Los Angeles with Utah.

Angeles and Ostrich Farm Railway the Los Angeles County Railway, and extended the line along the west bank of the Los Angeles River north to Burbank. Later that same year, they completed a branch line to Santa Monica through Hollywood, a distance of 28 miles. Both companies were subsequently merged with the electric Los Angeles and Pacific Railway Company (to create a new company of the same name) which operated until 1889 before being put in receivership.¹⁸ Real estate promoters in Monrovia organized the San Gabriel Valley Rapid Transit Company in 1887, and completed a line to the east side of the Los Angeles River at Aliso Street, through Arcadia and Alhambra. though a planned connection to Pasadena from West Alhambra through South Pasadena was never completed.

The competition between the two transcontinental railroad lines led to a fare war causing passenger fares from the east to plummet dramatically and facilitating a population explosion in which eastern Anglos quickly overwhelmed native Californios.¹⁹ By 1890, the population of Los Angeles more than quadrupled from the previous decade to more than 50,000, and many outlying communities were constructed along rail lines. Between 1870 and 1890, a total of twenty new cities were incorporated as the region

¹⁸Myers & Swett (1976). To complete the line to Santa Monica, the railway received rights of way from Senator Jones through his Rancho San Vicente y Santa Monica, from the Santa Monica Land and Water Company through the town of Sunset in Rancho San José de Buenos Ayres, and through Rancho La Brea and Rancho Rodeo de las Aguas. The line ran along Fountain Avenue through present day Hollywood and along Colorado Boulevard in Santa Monica to the pier.

¹⁹Fogelson (1993).

began to take on its now characteristic polycentric configuration. These cities, which were often more easily accessible by train than the fringe areas of Los Angeles proper, sprawled over the desert, along rail lines stretching from Santa Monica (incorporated in 1886) to the west as far east as Riverside and Redlands in San Bernardino County.

Pasadena, originally founded in 1874, grew into a city of 5,000 by the end of the decade.²⁰ Hollywood was founded by Horace H. Wilcox, and grew after a rail connection was established. Palms was laid out in 1887, at the site of a station house on the tracks of the Los Angeles and Independence Railroad. Redondo Beach, settled the same year, was served by a short gauge (3') steam line which was placed in operation to the community from Jefferson and Grand in Los Angeles in 1889 by the owners of the Los Angeles and Redondo Railway Company. Developers Emil d Artois and Walter L. Webb had constructed a dummy steam line from Agricultural Park (now Exposition Park) south to the town of Rosecrans (home of Union General Rosecrans) two years earlier. The town failed but the line was bought by J.C. Ainsworth and R.R. Thompson, who were building wharves at Redondo and needed a rail connection to Los Angeles. They obtained rights to extend the Rosecrans Railway from its terminus (at present day Gardena) nine miles to the ocean where passengers could disembark at a circular brick station they built in front

²⁰Crump (1970a).

of their Hotel Redondo.²¹

The real estate boom of the late 1880s also marked the beginning of African American migration to Los Angeles, part of the great urban migration of southern Blacks to the north and west coast following Reconstruction. These early immigrants to Los Angeles initially settled in small residential enclaves throughout the central city. The first major concentration of black population was located near the railroad tracks at 5th Street and Central Avenue. While some families lived in so-called railroad house courts near Arcade Station, many were in fact well housed. Others lived along West Temple street and between Normandie and Western along Jefferson. In all, somewhat over 1200 African Americans made Los Angeles home by 1890.²²

So high was the speculative fever that far more lots were platted than could ever be sold and by 1888 the bubble had burst. The SP and AT&SF acquired many of the bankrupt short lines and began running their own tracks to carry passengers and freight to the new communities that had been built.²³ For instance, the SP purchased the bankrupt San Gabriel Valley Rapid Transit Railroad it from its owners in 1893, completing the

²¹Myers & Swett (1976). Hollywood was called La Nopalera by the Spanish land of cactus. It was incorporated in 1903 but the lack of available water eventually forced the community to agree to be annexed to Los Angeles in 1910.

²²de Graff (1970).

²³Crump (1970a).

branch to Pasadena, and extending the line to Duarte. Though Los Angeles' first period of explosive population growth was over, the 1890s marked the beginning of an era of steady economic progress and continuing urban development facilitated in part by the discovery of oil near Whittier and Fullerton. In the downtown areas, the railroads helped create some of the earliest suburbs but the process was also supported by privately-owned omnibus and streetcar lines which emerged linking downtown businesses with customers residing in immediately outlying areas. Contrasting with many eastern cities, with their densely developed downtown cores pre-dating the streetcar era, the center of Los Angeles was still relatively small and sparsely settled when the first street rail lines were constructed. In older areas the streetcar mostly facilitated growth on the fringes of the city, such as described by Sam Bass Warner.²⁴ Instead, the emergence of urban railways in Southern California allowed for the continued growth of a series of new, low density suburban enclaves often at some distance from the central city, with only desert between.²⁵ As numerous historians have noted, this sprawling urban pattern was as much a product of a conscious desire of areas the new immigrants to avoid the miasmatic congestion characteristic of eastern cities as either the physical geography of the region or the new rail technology.²⁶ Though, as in other areas of the country, the evolution of the

²⁴Warner (1971).

²⁵Wachs (1996).

²⁶Fogelson (1993); Bottles (1987). But see Viehe (1981) who argues that the oil industry was responsible for the suburbanization and political fragmentation of Southern California, at least in the southern portion of the county.

transit system was closely linked with real estate development, the spread out nature of the growth pattern throughout Southern California put even greater financial strain on those street railways that operated here, and mostly were only marginally successful without the added revenues from those real estate investments. Lines served areas where companies held property or where local property owners paid them a substantial bonus to spur construction. Though Los Angeles would eventually boast the largest urban transit system in the nation, it never rested on a very secure financial basis. But the decentralized urban pattern it helped to create generated continuing struggles between downtown-centered business interests, which desired to retain control over the regional economy, and suburban residents and businesses, that resisted that hegemony.

The Early Transit Era

Los Angeles grew rapidly after 1880 as rising downtown land values prompted many families to move eastward (a series of low lying hills discouraging development to the west). The growth in population supported several new private transit lines while lower housing costs and proximity to downtown via the interurban rail system aided the transition. As elsewhere, the early years of transit were a period of rapid expansion as the economic upswing prompted a surge in transit development, and local competition for passengers and routes, and eventual consolidation. Even so, before 1885 only a few

horse-drawn street railways operated in the City of Angels.²⁷ By the end of the century the city s population would top 100,000 with roughly 2000 African Americans and almost an equal number of Chinese. The horsecar, and later cable and electric-powered street cars would begin to disperse the population out from the plaza area.

To facilitate construction of an urban transit system, the city granted franchises to lay tracks on city streets to private operators eager to improve the value of their real estate holdings.²⁸ Among the earliest areas to be connected to the downtown included close in suburbs across the Los Angeles river to the east, the university park area south of downtown, the City of Pasadena to the north, and later an area northwest of downtown known as Hollywood.

Horsecar Lines

The first transit line to open in Los Angeles for passenger service was Charles Dupuy s omnibus operating along Main Street, which appeared in 1873, the franchise apparently having been awarded to one D.V. Waldron on July 3, 1873 for a period of five years and running from the intersection of Alameda Street south to the city limits, near

²⁷Rolle (1995); Lewis (no date).

²⁸Foglesong (1993).

the present intersection with Jefferson. This was followed in 1874 by Judge Robert M. Widney's Spring and Sixth Street Railroad Company lines two and a half miles south along Main and San Pedro past the Central Plaza to a development he built at Sixth Street and from there across the river.²⁹ Tickets were 10 cents or twenty for a dollar. Judge Widney was, incidentally, one of a small group of citizens who had tried to quell the 1871 Chinese Massacre, and one of the founders of the University of Southern California. Widney was also involved in developing the town of Long Beach, and operated a horsecar line to there from the Wilmington until selling the line to the Southern Pacific in 1888.³⁰

From then until the turn of the century, various urban street rail lines came and went, victims of competition or poor planning. Horsecar lines were begun in Los Angeles, Pasadena, Pomona, Ontario, Santa Monica, and San Bernardino to support real estate promotion. William H. Workman created one of the first suburbs east of downtown Los Angeles when he subdivided a relatively flat area across the Los Angeles

²⁹His original franchise, for twenty years, was approved on December 8, 1873, and ran along Spring Street from Temple Street to First Street, then along Fort Street (now Broadway) to Fourth Street, on Fourth to Hill Street, on Hill to Fifth Street, on Fifth to Olive Street, on Olive to Sixth Street, and along Sixth to Figueroa Street. The fare was fixed at ten cents a ride or twenty tickets for a dollar. Widney acquired the rights to Waldron's franchise when he forfeited and extended his line to Main Street along Alameda. Lewis (no date).

³⁰Crump (1970a).

River which he named Boyle Heights, after his father-in-law, Andrew Boyle.³¹ Workman constructed a horsecar line across the river at Aliso Street to downtown and later built a second line along Aliso and Pleasant Valley streets.³² In 1886, he added a line downtown on First Street and one on Fourth Street extending through Boyle Heights by way of the East First Street and Aliso Bridges.³³ Boyle Heights initially was developed as an exclusive community housing some of the city's richest families. As Angelenos migrated to the west side of the city, however, the area ultimately became a port of entry for Russians, Jews, Armenians, Chinese, Japanese, and Mexicans.³⁴

Another early line, known as the Main Street and Agricultural Park Line, ran from Temple Block on Main to Washington Street, west to Figueroa Street and then south to the city limits near the site of Agricultural Park, the present-day Exposition Park, next to the University of Southern California. A branch line ran along Washington, Figueroa and

³¹Boyle Heights today encompasses an area about six miles square bounded by the river on the west, the present city boundary at Indiana Street on the east, Marengo Street and the San Bernardino Freeway on the north, and the city boundary at 25th Street on the south.

³²The franchise was granted on June 26, 1875 to William H. Workman and A. H. Judson for thirty years for a single track horsecar line from Arcadia and Main Streets, along Arcadia, Aliso Street, Aliso Avenue to Soto Street. It was later extended on Main to Temple Block to connect with the Spring and Sixth Street Line and the Main Street and Agricultural Park Line. Lewis (no date).

³³Romo (1983).

³⁴U.S. Department of Transportation, Federal Transit Administration, Los Angeles County Metropolitan Authority, Los Angeles Eastside Corridor Alternative Analysis/Craft Environmental Impact Statement/Draft Environmental Impact Report (AA/DEIS/DEIR), April, 1993.

Jefferson Streets.³⁵ The line was operated until 1896 when it was sold. The new owners converted its lines to electricity and built another line on San Pedro Street. Another horsecar line, the Santa Monica and Soldiers Home Railway built a line from Ocean Park Avenue in 1891 to the veterans retirement home near what was then known as the town of Sunset, prompting real estate sales along the route.³⁶ Owners of land northwest of Los Angeles set up the Elysian Park Street Railway, a mule line operating from Main Street through Echo Park to Montana Avenue.

A number of horsecar lines were also started in Pasadena, northeast of Los Angeles, including the Pasadena Street Railroad and the Colorado Street Railway. In 1887, promoters started another mule car line between Ontario and an amusement park in San Antonio Heights. In 1893 a horsecar line was put in operation between Riverside and Arlington, and one operated between Santa Ana and Orange from 1886 to 1887.³⁷

³⁵The original franchise was granted on September 28, 1874 to John C. Downer, O.W. Childs and John M. Baldwin, for twenty years. It was later extended on January 5, 1876 to permit completion of the road. Lewis (no date).

³⁶Myers & Swett (1976). The official name was the Pacific Branch of the National Home for Disabled Volunteer Soldiers & Sailors at Santa Monica. It was known simply as the Soldiers Home and is presently the site of the Veterans Administration Hospital in West Los Angeles.

³⁷Swett (1975); Swett (1976).

Cable Car Systems

These omnibus lines were soon joined by several cable-powered lines organized by hillside real estate owners eager to open up their properties for development. Among these were the Second Street and Temple Street Cable Railways. The franchise for the city's first cable railway was awarded in 1885 to Charles Howland. The Second Street Cable Railroad was designed to scale Bunker Hill and open areas west of the city to development. Running west from Second and Spring Streets on a single narrow gauge track (3'6") to the power house at Boylston Street, then out Lake Shore Drive (now Glendale Boulevard) and Diamond Street (now Beverly Boulevard) to Texas Street (now Belmont Avenue), it boasted a 27.7 percent grade on the western slope of Bunker Hill, the second steepest ever for a cable system. From there a dummy line connected it to the barley fields of Hollywood via Western Avenue and Hollywood Boulevard.³⁸ It operated until low ridership and damage from heavy rains forced it to close after 1888.³⁹ The Temple Street Cable Railway was more successful, beginning operations in 1886 and eventually running a double track from Spring Street also over Bunker Hill on Temple to the western boundary of the city at Hoover Street, before being sold in 1898. The

³⁸Lewis (no date).

³⁹Hilton (1982). The franchise was granted on March 14, 1885 to C. H. Howland. It opened on October 8, 1885 and ran from Spring Street on Second west to Boylston Street where the power station was located. From there it Lake Shore Avenue (now Glendale Boulevard), then on Diamond Street (now Beverly Boulevard) to Texas Street (now Belmont Avenue). Lewis (no date).

powerhouse was located at Temple and Edgewater.⁴⁰

Both lines connected to a narrow gauge steam line, the Cahuenga Valley Railroad (CVR), running to Hollywood.⁴¹ The CVR was organized in 1887 on a franchise granted to James McLoughlin and extended from Beverly and Belmont to Western and Santa Monica. From there it traveled along Prospect (now Hollywood Boulevard) west to Wilcox Avenue. In 1894, the new owner, C.C. Hurd, a local lemon grower, further extended the line to Highland Avenue, south to Sunset Boulevard, and west to Laurel Canyon, a distance of seven miles from its origin.

In 1889, I.W. Hellman and James Crank established a much larger system, the Los Angeles Cable Railway. There were ten (later 24) miles of cable powered lines operating from three stations and 25 miles of horsecar feeder lines. By 1888, it operated a number of narrow gauge lines to various suburbs, spanning the city from east to west, with northeast and southwest branches. From the company's terminal at West Seventh Street and Grand Avenue, one line went north up Fort Street (now Broadway) then along East First Street to Chicago Street and Evergreen Street in Boyle Heights. A second branch

⁴⁰Thompson (no date). It was bought in foreclosure in 1901 by J.A. Graves and eventually sold to Henry Huntington. Converted to electricity in 1902 as part of the Los Angeles Inter-Urban Railway, it continued in operation until 1946. The powerhouse at Edgewater Road was eventually demolished to make way for the Hollywood Freeway. Hilton (1982).

⁴¹William Workman also obtained a franchise for a cable line from First and Spring to First and Indiana. The franchise was granted on September 7, 1885. Lewis (no date).

continued north (over the tracks of the Second Street Railway) past the Plaza to the Eastlake District along San Fernando Street (now N. Spring Street) to Workman St. and east along Downey Avenue (now N. Broadway) to Pritchard Street (now Lincoln Park Avenue). Today the area is known as Lincoln Heights. Three viaducts carried the lines double tracks on single columns over the tracks of the Southern Pacific, Santa Fe, and Terminal Railroads and the Los Angeles River. A third line ran down Grand Avenue to Jefferson Street, and a fourth east along West Seventh to Alvarado Street. The company was sold in 1888 to Chicago investors who organized the Pacific Railway Company, which was initially capitalized at 5 million dollars, but as it operated over mostly flat terrain it suffered stiff competition from electric streetcars and folded in 1893, a total loss. Its assets, which included a number horse cars lines,⁴² were later sold to its competitor, the Los Angeles Consolidated Electric Railway (LACE) owned by Moses Sherman.

Electric Railways

The first electric line was also built by Charles Howland in 1887, to improve the marketability of outlying land. The Pico Street Electric Railway used a double electric line for power and ran on standard gauge track (4'8½") to Pico Heights (northwest of

⁴²These included the Buena Vista Street Line, the Aliso Street Line, the Blue Line, the Olive Street Line, the West Ninth Street Line, and the Kuhrts Street Line. Lewis (no date).

Vermont and Pico) where Howland sold lots in the Electric Railway Homestead Association Tract. The company was renamed the Los Angeles Electric Railway Company (LAERy) and added a second line on Maple Street from Pico to West Adams. But the lines were not successful in part due to their Daft electrical system and continued in operation only until 1888. The company was sold in 1890 to General Moses Sherman and his brother in law Eli Clark, part owners of the Electric Rapid Transit Company (ERTCo). Sherman, an Arizona businessman, later purchased the West Second Street Cable Railroad and several small horsecar lines of the Los Angeles and Vernon Street Railway (operating the Vernon Line, East Second Street Line, also known as the Davies Line, and the Mateo Street Line), converting them to electricity. A more efficient Sprague power system was installed on the Pico Line and the track was narrow gauged (3'6") to match the cable lines. By 1891, Sherman's new Belt Line Railway Company constructed a line over portions of the Second Street Cable Railway to West Lake Park (now MacArthur Park).⁴³

These lines were later merged to become part of the Consolidated Electric Railway Company (LACE). The company, formed by Sherman and Clark with financing from the Pacific Bank and Home Savings Bank of San Francisco, absorbed the assets of Sherman's Belt Line (the Davies, Vernon, and Pico Street Lines) as well as the Pacific Railway (old Los Angeles Cable Railway), and eventually converted all their lines to

⁴³Walker (1977).

electricity. Power was supplied by a companion company, the Los Angeles Electric Company, which also sold power to electric light and manufacturing customers. By 1893, the company had a near monopoly, owning and operating a total seven branches, including routes to the University of Southern California, East Los Angeles, West Lake Park, Elysian Park, and Boyle Heights.⁴⁴

Sherman and Clark also faced stiff competition from William Spencer Hook of Illinois who organized the Los Angeles Traction Company (LAT) in 1895, building a line from the Santa Fe Station to Sixteenth Street and Burlington Avenue, which was later extended to Vermont and Exposition Boulevard. Four additional lines were completed by 1898, including a line down Vermont to San Pedro.⁴⁵ Hook became partners with Abbot Kinney, the developer of Venice, California, and the two would fight Sherman and Clark for control of the Santa Monica Bay.

Real estate promoters were also responsible for the first interurban electric railway systems. Sherman and Clark built the first such line in 1895 connecting downtown Los Angeles to Pasadena along the Arroyo Seco, forming the Pasadena and Los Angeles Railway Company as a subsidiary of the LACE.⁴⁶ The route ran through Garvanza

⁴⁴SCRTD, Transit Comparison Study, December 1985, p. II-5.

⁴⁵Lewis (no date).

⁴⁶LACTC, Land Use/Transportation Policy, Background Report, 1991.

(Highland Park) and South Pasadena. Later, they purchased a number of smaller steam railroads, including the Cahuenga Valley Railroad, the Los Angeles and Pacific Railway (the local steam railroad which operated a line to Santa Monica from 1888 to 1889), the Elysian Park Street Railway Company, and the Santa Monica and Soldiers Home Railroad, which they consolidated into the Pasadena and Pacific Railway and opened an electric line to Santa Monica. This line ran from the company's terminal at Fourth Street out Beverly Boulevard (now Sunset Boulevard) and down Santa Monica Boulevard to Ocean Avenue via Colegrove (South Hollywood), Sherman (later West Hollywood), Morocco (later Beverly Hills) and Sunset (later West Los Angeles). In exchange for building the line, the City of Santa Monica gave Sherman and Clark 225 acres at Sawtelle, which they sold to finance construction. By the end of 1896 they had extended the line to Ocean Park.⁴⁷

A year later, the company opened a standard gauge line known as the Santa Monica Shortline from Fourth and Hill to West 16th to then along a private right of way through Vineyard (along present day Venice and San Vincente Boulevards, and Burton Way) to Beverly (present Beverly Hills). The new Santa Monica Short Line cut two miles off the trip.⁴⁸

⁴⁷Middleton (1961).

⁴⁸Myers & Swett (1976).

Sherman and Clark's companies were in constant financial difficulties, in part due to their speculative efforts to promote interurbans. When the Consolidated Electric Railway failed to pay its creditors due to declining patronage, the company was sold under foreclosure in 1895 to disgruntled bondholders who subsequently reorganized it as the Los Angeles Railway Company, leaving control over the Pasadena and Los Angeles and the Pasadena and Pacific interurban railways to Sherman and Clark. Investors also foreclosed on the Pasadena and Los Angeles line in 1898 (renaming it the Los Angeles and Pasadena Railway), though Sherman and Clark managed to retain control of their Santa Monica line by reorganizing it as the Los Angeles and Pacific Railroad Company (LAP) and constructing a new Fourth Street station. The LAP proved more successful. In addition to passengers, the LAP carried freight including fruit, crushed rock, lumber, and bricks.⁴⁹

The new owners of the Los Angeles Railway eventually sold the company and its 103 cars to a group headed by millionaire real estate developer Henry Huntington, nephew and heir of Southern Pacific president Colis P. Huntington, in 1898, who renamed it the Los Angeles Railway Corporation (LARy). The group also acquired the Main Street and Agricultural Park Line (MAP) and the Los Angeles and Pasadena line. Huntington also purchased the Main, Fifth and San Pedro running on San Pedro Street from 5th to 30th Street. From there, he set out to build a street railway network to rival his

⁴⁹Crump (1970a); Myers & Swett (1976).

late uncle's company. But to do so he would have to battle Edward Harriman, the New York financier and owner of the Union Pacific, who had successfully outmaneuvered him for control of the Southern Pacific.⁵⁰

Transit's Golden Age, 1900-1930

By the turn of the century, the city's population had doubled from just a decade earlier to over 100,000 and the land area had grown to 37 square miles. The streetcars and interurbans provided easy access to the industries and commercial areas of downtown. Though the city was nearly all white, a number of ethnic communities were forming that would soon contribute to the city's long history of ethnic diversity. African Americans, living south of the downtown, made up only a bit over 2 percent of the total, as did Asians, primarily Chinese located north of the plaza. Over the first two decades of the Twentieth Century, the population of Los Angeles would top a half million. The city's black population would also increase to over 15,000 or nearly 3 percent of the total, located primarily along Central Avenue between 4th and 9th Streets, and west toward

⁵⁰Crump (1970a). Harriman was the father of W. Averell Harriman. Although Huntington gave up his fight for control of the company and sold his stock to Harriman, who became President of the SP, he earned a substantial profit which he put toward his street railway ventures. He also married his uncle's widow, after divorcing his first wife when his uncle died.

Maple Street.⁵¹ Asians would experience similar gains. The Latino population also continued to grow, though reliable figures are not available from the census which did not distinguish their numbers from whites.

The decentralization brought on by the railways also opened up old ethnic communities on the east side of downtown to new immigrants. Huntington built a line east from the Plaza, through Boyle Heights and neighboring Maravilla and Belevedere in East Los Angeles using Mexican workers who lived in boxcars, or in labor camps (known as cholo courts) around junctions, many of which became isolated barrios.⁵² From 1900 to 1910, the Jewish population of Boyle Heights had grown from 2,500 to nearly 6,000, but by the mid-1920s, many residents had moved to the west side (mainly to the Fairfax District) and only about one-third of Los Angeles Jewish population of 65,000 resided in Boyle Heights, which by then had become home to many non-Jewish White Russians, Poles, Italians, Japanese, and a growing number of Mexican residents, many of whom worked as laborers for the railroads. Some black families who had occupied a section near the Mexican community in Boyle Heights continued to reside there after 1910, but by then most had left to live in what was becoming known as Little Harlem along Central Avenue.

⁵¹De Graff (1970). The Southern Pacific brought in 2000 black Americans in 1903 to break up a strike by Mexican construction workers.

⁵²Romo (1983); Gahan (1998); Eastman (1998); Collins (1980).

During this time period, competition for political control of the region was intensifying. The City of Los Angeles began to expand its reach by consolidating and absorbed surrounding communities. In 1896, ten square miles south and west of the city were annexed. To acquire port access, the city acquired a narrow strip of land connecting San Pedro with the downtown in 1906, an area that included parts of what is now known as South Central. To complete the arrangement, Los Angeles was consolidated with the cities of Wilmington and San Pedro in 1909. The City of Hollywood, incorporated in 1903, was consolidated in 1910 by which time the population of Los Angeles had reached 320,000. Not every city was joined to Los Angeles, but they too shared in the region's growth. Pasadena, Santa Monica, and Redondo Beach, all cities that avoided annexation, doubled in size between 1900 and 1910. Another, Long Beach, grew from 2,500 to 17,809. In 1915, most of the San Fernando Valley south west of the original Southern Pacific Railroad line and until then a mainly agricultural area, was forced to join to the city in order to obtain water from the city's Owens Valley project, opening it up to residential subdivision, an event fictionalized in the movie *Chinatown*.

The Valley, as it is popularly known, is physically separated from the rest of Los Angeles by low lying mountains. Populated predominately by middle class, non-Hispanic whites for much of its history, the area developed its own cultural identity and has long harbored secessionist sentiments, culminating in a narrowly defeated 2002 deannexation ballot measure. Tying the Valley closer to the city both politically and

economically has been at the core of numerous attempts to establish rail connections between the two areas, as discussed more fully below.

The following decade would see continuing growth and expansion in Southern California. During the 1920s, the population of Los Angeles more than doubled to over 1.2 million. North Hollywood, another area in the San Fernando Valley originally known as Lankershim, was annexed in 1923.⁵³ Throughout the period both residences and population continued to disperse around the Southland; average densities in Los Angeles were far lower than in New York, Boston or Chicago.⁵⁴ Growing ethnic enclaves appeared as the non-white population reached 14 percent of the population, including over 38,000 African Americans, who started arriving after World War I. The black community along Central Avenue began to expand east to the railroad tracks on Alameda and south to neighboring Florence, where their progress was halted by opposition from white homeowners. Further south, however, so many African Americans settled in the old railroad community of Watts that Los Angeles annexed the area in 1926, allegedly to prevent the election of a black mayor.⁵⁵ A thriving black middle class area also developed in the West Jefferson and West Adams area. As the number of African American homeowners increased, white residents began moving out, helping to create a

⁵³Fogelson (1983).

⁵⁴Wachs (1984).

⁵⁵de Graff (1970).

recognizable African American district south of downtown.

The gradual expansion of African American residences south of downtown and east and west of Central Avenue prompted many white homeowners to adopt the use of racially restrictive covenants in other areas of the city, a practice that served to confine roughly 70 percent of African American residents to the South Central area. The area not only became the locus of black commerce but a cultural hearth as well, centered on the Dunbar Hotel at 42nd Street and Central Avenue. Jazz artists and other entertainers frequented the hotel's club and restaurant.⁵⁶ This area would see a major increase in population following World War II and play an important role in the city's social history as a site of political resistance and a focus for struggles over public transit policy in the later decades of the century (see Chapters Five and Seven).

More cities would be added to the Southland and by 1930, the population of Los Angeles topped one million, while the transit system would reach its greatest extent. Following the pattern of other cities, numerous private systems were created, but most failed and were absorbed into larger enterprises. By the time of the Great Depression, there were only two major systems left, and their owners had agreed to split the territory carefully between themselves.

⁵⁶Sweeting (1992).

Growth and Consolidation

Street railways were in their heyday. The major operations at this time were Sherman and Clark's Los Angeles and Pacific Railroad (LAP), Huntington's Los Angeles Railway (LARy), and Hook's Los Angeles Traction Company (LAT). Among the smaller lines were the Los Angeles and Redondo Railroad Company (LA&R). The railroad, which shared trackage rights in downtown Los Angeles with the LARy, operated narrow gauge (3'6") trains from Los Angeles to the wharves at Redondo Beach through both Inglewood and Gardena. All these lines enjoyed a spirited competition to expand their services to take business from each other and the railroads.

Sherman and Clark added a new line to the LAP along Hollywood Boulevard in 1900 and extended their Main Line to Venice the following year. In 1902, they acquired and electrified the standard gauge line the AT&SF had built from Inglewood to Ocean Park⁵⁷ and constructed the Venice Short line from Vineyard to the beach (along present day Venice Boulevard). By 1903, they opened a line from Ivy Junction (now Culver City) to Playa del Rey, Manhattan Beach, Hermosa Beach, and Redondo Beach (along present day Culver Boulevard to Vista del Mar). Sherman, Clark, and other investors organized the Beach Land Company, building a hotel and pavilion on the Lagoon (today

⁵⁷The route of was along the present day San Diego (405) and Marina (90) Freeways, and Washington Boulevard.

Marina del Rey), and selling lots. Later a Lagoon Line linking Venice to Playa del Rey was completed. At Hermosa Beach, the partners purchased 1500 acres and put in a boardwalk and pier. They also added the Westgate Line through what is now Brentwood, where they also had substantial real estate interests. The line ran from Santa Monica Boulevard north past the Soldiers Home along present day San Vicente Boulevard to Ocean Avenue where it rejoined the Main Line. Another line was opened in Hollywood from Sunset to Western and Franklin and Hollywood and Vine. Finally, in 1908, the company also leased and converted to electric operation portions of the SP's Santa Monica Air Line (the old Los Angeles and Independence Railroad) from Ocean Park to Sentous, crossing the Venice Short Line at Ivy Junction, and including the branch line to the Soldiers Home (now the Veteran's Administration Hospital in West Los Angeles). During this period, the LAP also began to standard gauge all its lines to bring them up to interurban status, completing the job in 1909. From then on all trains ran out of the company's new terminal at Hill Street (between 4th and 5th Streets), the old Fourth Street station having burned down a year earlier.⁵⁸

With these additions and acquisitions, the LAP provided interurban service to Los Angeles, Hollywood, Colegrove, Sherman, Sawtelle, Santa Monica, Ocean Park, Venice,

⁵⁸Myers & Swett (1976). The actual corporate history of these lines is quite complicated. Suffice to say that Sherman and Clark typically formed a new corporation to construct individual lines, and upon completion, merged the entity with their existing LAP holdings, forming a new corporation with the same name. See the Official Corporate History of the Pacific Electric Railway Company, written in 1914, reproduced in Myers & Swett (1976), pp. 190-208.

Playa del Rey, Hermosa Beach, Redondo Beach, and Palms. Local service was limited to the City of Los Angeles, Hollywood, Sawtelle, Santa Monica, and Ocean Park. The LAP also carried freight and mail in addition to passengers.

Sherman and Clark were not alone in developing tourist attractions to lure potential homebuyers. Rival developer Abbot Kinney acquired 2 ½ miles of beach front south of Santa Monica where he built his Venice of America, a residential development by along canals designed to resemble those of Venice, Italy. His partner, F.G. Ryan had previously established the community of Ocean Park in the southern part of Santa Monica. The area was served by the interurban Los Angeles, Ocean Park, and Santa Monica Railway Company, a subsidiary of Kinney and Hook's LAT. The line had been built to Santa Monica along West Jefferson through Ocean Park. The competition was resolved when Kinney and his partner William S. Hook sold their interests in the railway to the LAP in 1903.⁵⁹

To spur interest in potential home sales, the LAP offered popular Balloon Route Trolley Trips tourist excursions. Advertised as a trip of 100 miles for 100 cents, covering 10 beaches and 8 cities, the all-day trips offered stops at the Hollywood studio of celebrated French painter Paul deLongpre, the bean groves of Beverly Hills, the Old Soldier's Home, the Long Wharf at the Port of Los Angeles, the Camera Obscura in Santa

⁵⁹Myers & Swett (1976).

Monica, a fish lunch at the famous Playa del Rey Pavillion, and a stop at the Venice Canals and Miniature Railroad, before heading back downtown through Palms.⁶⁰

Not all railways operated over such long distances. In 1901, a funicular railway known as Angels Flight was constructed between Third and Hill Streets by Colonel J.W. Edy to carry passengers from the downtown shopping district some 335 feet up Bunker Hill on a 33 percent grade.⁶¹ A few blocks away Court Flight also carried LARy passengers up 200 feet on an even steeper grade of 45 percent. The City required both systems to provide adjacent stairways, so a fare was only charged for rides going up.⁶²

⁶⁰Myers & Swett (1976).

⁶¹Angels Flight was eventually dismantled and put in storage in 1969 as part of the city's massive redevelopment of Bunker Hill to a commercial office district, part of the regional restructuring of downtown Los Angeles into a major center of international capital (see discussion in Chapter Five). It was later restored to near its original location and used to ferry tourists and commuters from the new Metro subway station at Fourth and Hill Street to the top of the hill, now known as Angelus Plaza, where high-rise corporate towers and fashionable restaurants sit. Opened in 1996, service was discontinued in 2001 following a fatal accident in which one of the two counterbalanced cars broke loose and crashed into the other.

⁶²Electric Railroad Historical Association, "Court Flight," accessed at www.erha.org. As with Angels Flight, Court Flight was torn down in the 1940's but its whereabouts are unknown.

The Pacific Electric Railway

Sherman, Clark, along with Thompson, Ainsworth, and Kinney were responsible for most of the development along the beaches. But it was Henry Huntington who would make the biggest impact on the geography of the region as he set out building his traction empire. Financing for route extensions depended mainly on subsidies from adjoining land owners who wanted to secure rail connections to their properties, which ensured that many streetcar companies would later face financial difficulties. Henry Huntington had personal wealth but more importantly access to substantial investment capital. By 1901, Huntington had expanded his holdings, purchasing dozens of interurban and local lines and creating the Pacific Electric Railway Company to connect his various properties in the San Gabriel Valley, and south and west of downtown Los Angeles. The company was chartered with \$10 Million in stock and \$10 Million in bonds, with Huntington controlling 55 percent and his partner Hellman 45 percent.⁶³ Unlike the narrow gauge LARy which ran mostly on city streets, the Pacific Electric was intended to provide interurban service on standard gauge track (4'8½"). Huntington had the financial assets to secure private rights of way for his lines, which helped to make them competitive with the steam railroads. For reasons never explained, but mainly to distinguish the color of his interurban cars from those of the LARy (yellow and brown) and the LAP (olive

⁶³The company issued \$452,000 worth of the authorized stock. Huntington owned the largest share \$98,500, Hellman and his two partners, each purchased \$67,800. The remainder was held by three others, including Epes Randolph, the company's railroad engineer. Crump (1970a).

green), he chose the red for the PE livery.

His first major project was to extend streetcar service to Long Beach at a cost of \$1 million. Huntington brought in 400 Mexican laborers to construct the line, living in latin camps rows of four-room houses for tow families near Watts.⁶⁴ His double tracks from Los Angeles paralleled the route of the Southern Pacific (SP) but provided faster and less expensive service, running on a private right of way for most of the distance between the two cities. The line, which opened with great fanfare on July 4th in 1902, was extremely popular and Long Beach grew from a population of 2,252 in 1900 to 17,809 in just ten years, making it the fastest growing city in the country. His cars ran every four minutes compared to the six daily trains of the SP and the 8 trains of the Salt Lake Railroad.⁶⁵ Huntington aggressively extended his Long Beach line to the industrial suburb of San Pedro. By running his line directly over the SP right of way, he denied the railroad a monopoly over freight service at the harbor. In 1903, the PE opened a branch line to Whittier from the Long Beach Line at Slauson Junction.

During the first decade of the last century, numerous cities were established in

⁶⁴Griswold del Castillo (1982).

⁶⁵In 1900, U.S. Senator William A. Clark established the Salt Lake Railroad and purchased the Los Angeles Terminal Railroad which had tracks from the downtown south to Long Beach and San Pedro and northwest to Pasadena and Glendale. Clark sold his interests to Harriman, and agreed to oppose Huntington. Crump (1970a).

Southern California, all but one along interurban lines.⁶⁶ Huntington used his railway empire to help spur the development of many of Los Angeles' earliest suburbs. Through his Pacific Electric Land Company, he bought property in Alhambra, Glendale, and San Marino, as well as south of Long Beach where he built Huntington Beach, and extended or rebuilt lines to each.⁶⁷

In 1902, Huntington completed a new standard gauge line to Pasadena, known as the Pasadena Short Line (along present Huntington Drive and Fair Oaks Avenue), and a branch line from Sierra Vista served Alhambra and San Gabriel.⁶⁸ He also acquired the Mt. Lowe railroad, including the Great Incline, a cable-powered tram built by Professor Thaddeus Solieski Coulincourt Lowe that whisked passengers 1500 feet up a 60 percent grade from the end of Rubio Canyon above Pasadena to Mt. Echo in the San Gabriel Mountains. From there tourists rode a narrow gauge trolley four miles through 127 curves and over 18 trestles to the base of Mt. Lowe, 5000 feet above sea level, where they could

⁶⁶Myers & Swett (1976). Cities incorporated in this period included Covina (1901), Hollywood, Alhambra, and Arcadia (1903), Venice and Wilmington (1904), Vernon (1905), Sawtelle, Huntington Park, Glendale, and La Verne (1906), Hermosa Beach, Sierra Madre, and Watts (1907), as well as Belmont Heights and Inglewood (1908).

⁶⁷Crump (1992).

⁶⁸The branch line was originally built by the Los Angeles and Pasadena Railway in 1901 from Mission San Gabriel to Los Angeles General Hospital. Passengers had to transfer to narrow gauge cars of the South Pasadena Main Line (old Los Angeles and Pasadena line) to enter downtown via Mission Road and the Macy Street bridge until Huntington acquired rights of way and permission to lay standard gauge tracks on Aliso, Los Angeles, and First Streets to the PE station at Sixth and Main in 1903, at which time the Main Line was standard gauged and rerouted to the terminal. Swett (1976).

enjoy dining at the Alpine Tavern.⁶⁹ Huntington also added a branch to Annandale on the old South Pasadena Line to prevent the LAT from establishing a western access to Pasadena.

Huntington proposed running lines to San Bernardino, Riverside, Pomona, and Santa Barbara. These would have paralleled SP routes in many instances, and he made no secret of his desire to extend his empire all the way from San Diego to San Francisco in direct competition with the steam railroads. Harriman, fearing the loss of SP's local freight business since electric trains could run more frequent trips at lower prices than steam locomotives, countered by asking the City of Los Angeles for a city-wide franchise, offering a rate of 3 cents a mile. Huntington responded by offering 500-mile ride books for \$6.25, or 1¼ cents a mile. But the real fight began when Harriman acquired Hook's Los Angeles Traction Company in 1903, the LAT's chief competitor in Los Angeles. The purchase also gave the SP a line built by LAT's interurban subsidiary, the California Pacific Railroad, to San Pedro through Gardena and the industrial suburb of Torrance.

The battle heated up as Harriman arranged to outbid Huntington for rights to a line to Hollywood, paying \$110,000 for a franchise worth \$10,000 at most, giving notice that he would contest any attempt by Huntington to extend his holdings within Los

⁶⁹Crump (1970a). The Alpine Tavern operated until 1938 when it was destroyed by fire. The trolley tracks were washed out in a storm a year later and never rebuilt.

Angeles.⁷⁰ Next, he acquired substantial financial interests in both the Los Angeles Railway and the Pacific Electric. He purchased 45 percent of the PE from Hellman and his associates. Under fire, Huntington agreed to sell his new partner Harriman half of the LARY in exchange for the local lines of the LAT and the California Pacific, and Harriman agreed to allow Huntington to continue running both companies.⁷¹ Huntington quickly built the PE into one of the largest interurban systems.

The Pasadena Short Line was extended from Oneota Junction to Monrovia in 1903 and Glendora in 1907. In 1904, Huntington built a branch line from San Marino to Sierra Madre. In 1906 he added another branch north from El Molino along Oak Knoll Avenue to his Huntington Hotel and continuing via South Lake Avenue to Colorado Boulevard in Pasadena where it connected with the local streetcar lines of the old Pasadena and Los Angeles Railway.

Huntington set off a buying frenzy in 1905 when he acquired both the Los Angeles and Redondo Railway Company (LA&R), which had recently converted to electricity to compete with the LAP's beach line, and the Redondo Land Company, which owned 90 percent of the real estate in Redondo. Huntington built a Pavilion, Casino, and

⁷⁰Fogelsong (1993). Throughout the history of the PE, the potential for passenger lines interfering with the railroad's profitable freight operations, caused the SP to resist expansion of the street railway system, as discussed below.

⁷¹Crump (1970a).

swimming pool to attract interest in his developments and offered free rides on his cars to prospective purchasers.⁷²

The same year saw the opening of the nine story Pacific Electric Building at Sixth and Main which housed the company's offices and served as its new downtown interurban terminal. All trains entered and left the stub end passenger concourse from Main Street. This often caused traffic to back up along the street as the trains, some three cars long, waited their turn to enter the terminal.⁷³

The Los Angeles Inter-Urban Electric Railway

By 1904, the PE was operating about 100 miles of track, but Huntington wanted to build 350 more miles. Huntington incorporated a new company unconnected with the SP, the Los Angeles Inter-Urban Electric Railway (LAIU), with an initial capital of \$10 million, to construct extensions to the PE lines.

The LAIU added another line to San Pedro through Dominguez and one from Watts to Santa Ana. Also in 1904, the LAIU also acquired the assets of the old Santa

⁷²Myers & Swett (1976).

⁷³Swett (1976).

Ana, Orange and Tustin Street Railway, whose horsecars had been motorized in 1897, and established a route from Santa Ana to Orange. The LAIU also completed routes from Los Nietos (Santa Fe Springs) to La Habra and Yorba Linda, and from Long Beach to Newport and Balboa. A few years later, Huntington also added a line connecting Santa Ana to his holdings in Huntington Beach to attract business away from rival Newport Beach. In 1906, the LAIU added two additional tracks for local and freight service between Ninth Street and Watts, making it the first four track line in the system.⁷⁴

The LAIU bought out the Los Angeles and Glendale Electric Railway, and the San Gabriel Valley Rapid Transit Company (SGVRT). A line was opened to Glendale in 1904 with green LAIU cars, and later extended to Burbank once the residents paid a bonus to Huntington. The LAIU built a new double track in 1906 over the SGVRT right of way from the Aliso Street Bridge to Indian Village, just past Valley Junction, where it connected to the Pasadena Short Line, providing an easier route to downtown. The Old Pasadena Main Line (South Pasadena Line) was rerouted south to Echandia Junction and the tracks along Mission Street were torn out. The LAIU also four-tracked the route from Indian Village to El Molino. From Valley Junction, tracks reached Covina in 1907 over portions of the SGVRT right of way, and San Dimas by 1910.⁷⁵

⁷⁴Swett (1975).

⁷⁵Crump (1970a); Swett (1975); Swett (1976).

Within a few years, Huntington's lines spread in nearly every direction. LAIU tracks carried the PE's Big Red Cars as well as well as LAT local trolleys. Critics complained, however, that service was sporadic since it bypassed areas where Huntington did not have real estate holdings. Perhaps more disconcerting to the public, while the LAIU accepted transfers from some PE lines, it refused to honor transfers from the LARy, despite the fact that both were controlled by Huntington. In 1907, Huntington acquired lines in San Bernardino, Redlands and Riverside, and made plans to connect them with his other holdings.

LAP's Fourth Street Subway

Harriman remained concerned about Huntington's operations, but bided his time. In 1906, he acquired controlling interest in the LAP, though Sherman and Clark continued to operate the system and gradually converted all their lines to standard gauge to conform to the SP tracks. Traffic was becoming increasingly congested in the downtown area, as trolleys competed for space on city streets with increasing numbers of automobiles. To address the problem, Harriman proposed that the LAP would construct twin subways, each carrying double tracks, underneath Fourth Street from Hill Street to Vermont Avenue. From there one line would head southwest to connect with the Venice Short Line at Vineyard (San Vicente and Venice), passing through another 1700 foot

tunnel underneath the site of the Ambassador Hotel. A second surface line would travel along Fifth Street, north of Wilshire Boulevard, to join the Santa Monica Short Line at Sherman Junction. One branch from this line would head north on Western, while a second would follow Highland Avenue to Hollywood, and from there through the Cahuenga Pass to the San Fernando Valley.

The proposed alignment was never constructed, but is strikingly similar to the Wilshire Starter Line proposed by the Southern California Rapid Transit District in the 1970s and eventually completed by the Los Angeles Metropolitan Transportation Authority, albeit in a somewhat modified form (see Chapter Six). The LAP did however, complete two tunnels in 1909 along Hill Street in downtown Los Angeles to speed operations for trains from the Hollywood and Colegrove lines entering and leaving the 4th Street station, cutting ten minutes off the trip from Sunset via Main and Spring Streets.⁷⁶ Nevertheless, the subway plan signaled that Harriman was ready to seriously challenge Huntington for control of street railways in Los Angeles. Soon thereafter Sherman and Clark sold all their remaining shares to the SP. The sale netted the railroad nearly 205 miles of track, 172 passenger cars, and 194 freight cars.⁷⁷ Harriman now had all the leverage he needed to force Huntington to make a deal. Perhaps in

⁷⁶Myers & Swett (1976). Tunnel No. 1 from 1st Street to Temple was 546 feet long and Tunnel No. 2 from Temple to Sunset was 976 feet. Tunnel No. 2 was removed in 1951 for construction of the Hollywood Freeway and Tunnel No. 2 was removed in 1955 to lower the hill to street grade as part of the development of the Civic Center.

⁷⁷Myers & Swett (1976).

acknowledgment of the situation, in 1908, in a move that surprised many, Huntington leased the LAIU and its 550 miles of track back to the PE.

The Great Merger of 1911

Huntington and Harriman controlled 2/3 of the transit companies in the county. Huntington was a 55 percent majority stock holder of the Pacific Electric and the two men shared ownership of the Los Angeles Railway. But Harriman now controlled the Los Angeles Pacific which ended any prospects for Huntington to expand the PE. The two agreed to end their partnership in 1910, dividing their holdings between the renamed, narrow gauge Los Angeles Railway (LARy), now controlled by Huntington and operating only local city lines, and the standard gauge Pacific Electric Railway Corporation (PE), run by Harriman and providing mostly interurban service.⁷⁸ The LARy obtained 71 streetcars, including 43 owned by the old LAT.⁷⁹

In 1911, Harriman combined the PE with seven other traction companies including the LAP, LA&R, and the LAIU, to create the country's largest interurban

⁷⁸Crump (1970a).

⁷⁹Walker (1977).

carrier, under complete control of the SP.⁸⁰ The company was capitalized at \$100 million, \$50 million in stock and \$50 in bonds (presumably to compensate Huntington). With the exception of some local lines in San Pedro, Long Beach, Pasadena, Los Angeles, Pomona, Riverside, San Bernardino, Redlands, and Santa Ana that the PE also continued to operate, all interurban lines ran through downtown. From here it was possible to reach most areas of the county within an hour. Spencer Crump reports the travel times to a number of destinations in 1911:

Huntington Park	16 min.
Beverly Hills	32 min.
Glendale	35 min.
Pasadena	35 min.
Long Beach	41 min.
San Pedro	45 min.
La Habra	48 min.
Santa Monica	50 min.
Redondo Beach	57 min.
Covina	60 min.
Glendora	68 min.

⁸⁰The other companies, which had been previously purchased by the LAIU, were the San Bernardino Inter-Urban, the Redlands Central, the Riverside and Arlington, and the San Bernardino Valley Traction.

Needless to say, travel times on today's freeways can often exceed these figures. As discussed in subsequent chapters, these are some of the same locations that the Los Angeles Metropolitan Transportation Authority (MTA) proposed to link with the downtown on its modern Metrorail system.

Many of the projects envisioned by Henry Huntington were completed by the PE such as the line between Los Angeles and San Bernardino, however, his grand vision to run tracks from San Diego to Santa Barbara was dropped. In 1912, work began on a branch line from the Long Beach Line at Watts to the Standard Oil refinery at El Segundo also providing rail connections to Gardena, Redondo Beach, Torrance and San Pedro. The same year the PE bought the Ontario and San Antonio Heights Railway Company, from the Ontario Electric Company (now Southern California Edison) which had purchased and electrified the old mule car line between those two cities in 1895, and which also owned a line from Upland to Pomona. The PE opened a line from Covina to Pomona in 1912, and two years later completed a track the remaining 20 miles from Upland to San Bernardino. From there lines of the San Bernardino Valley Traction (acquired in the Great Merger) connected Colton, Arrowhead, Highland, and Redlands. The PE completed the line from Riverside to Colton in 1913 and established a through

⁸¹Crump (1970b).

route to Redlands in 1916. The PE also ran between Riverside and Rialto on tracks of the Union Pacific. Passenger service to Corona began in early 1915, over the earlier horsecar line which had been electrified in 1899, but plans to connect to the La Habra-Yorba Linda line were never realized.⁸² After 1914, the PE would not undertake any major expansion of service, at the time running 1,626 trains and 3,262 cars over its routes.⁸³ Since the tracks were all standard gauge, the SP could also run freight trains over PE lines, and this became an increasingly important factor in the SP's business calculations regarding PE operations.

The PE's expansion led to the formation of many new outlying communities; thirteen cities were incorporated in the county in the second decade of the last century, all but one along PE lines.⁸⁴ The exception was the City of San Fernando, but it was established shortly after the announcement that the PE would extend its lines to the San Fernando Valley.

Perhaps biggest real estate venture tied to the street railways occurred in connection with the development of the Valley. There, the Los Angeles Suburban

⁸²Swett (1975).

⁸³Middleton (1961).

⁸⁴Myers & Swett (1976). The cities were Beverly Hills (1914), Burbank (1911), Culver City (1917), El Monte (1912), El Segundo (1917), Glendora (1911), Manhattan Beach (1912), Monterey Park (1916), San Fernando (1911), San Gabriel (1913), San Marino (1913), and Seal Beach (1915).

Homes Company, a syndicate including Huntington, Sherman, Henry Chandler (editor of the *Los Angeles Times*), and his father-in-law, Harrison Gray Otis (publisher of the *Times*), assembled a massive 47,500 acre property called Tract 1,000 in anticipation of where the Metropolitan Water District (MWD) would lay pipes carrying water from the California Aqueduct. At the time, Sherman was the President of the MWD, and in 1909 had voted to build the project. Chandler and others also incorporated the Los Angeles and San Fernando Valley Electric Railway to construct a line from Los Angeles to San Fernando and acquired rights of way along the proposed route which were later sold to the PE to construct the line. The investors paid the PE to assure it would extend its lines to their property. In 1910, the company began constructing the line to the San Fernando Valley from Hollywood through the Cahuenga Pass, site of the last battle of the Mexican-American War, and north on Vineland to Lankershim (now North Hollywood).⁸⁵ The rest of the route was east to Van Nuys along Chandler Boulevard, then east on Parthenia to Sepulveda Boulevard. From there one branch ran north on past the San Fernando Mission to Brand Boulevard in the City of San Fernando. Another branch continued on Sherman Way to Owensmouth (now Canoga Park).⁸⁶ The Aqueduct was completed in 1913, and most of the San Fernando Valley was annexed by the City of Los Angeles in 1915. The investors made millions but also earned a certain measure of resentment for their audacious scheme.

⁸⁵Crump (1970a).

⁸⁶Swett (1975).

Completion of the PE system and the subsequent growth in ridership did not, however, translate into financial success. The company showed a profit in 1913, its last for a decade. The next year it posted earnings of \$2.4 million over expenses, but paid \$3 million in interest to bondholders. There was strong public opposition though to any fare increase. In 1918, the Railroad Commission did authorize fares of 3 cents a mile one way and 2½ cents a mile roundtrip. Up until then fares had been set under 2 cents a mile.⁸⁷

Of Red and Yellow Cars

The PE system, popularly known as the Red Cars because of its color scheme, consisted of four Districts: The Northern, Southern, Western, and Eastern. The Northern District covered 400 miles along 33 routes and served Pasadena, the San Gabriel Valley, San Bernardino, Redlands, and Riverside. It included the Great Cable Incline and the narrow gauge Alpine Division operating to Mt. Lowe. The Western District, which incorporated the old Los Angeles Pacific, stretched 260 miles along 12 lines serving Hollywood, Beverly Hills, Glendale, Burbank, the San Fernando Valley as well as the beach communities. The Southern District boasted 400 miles of track and included the 17 mile run from downtown to San Pedro and Long Beach. It also carried passengers to

⁸⁷Crump (1970a).

Newport Beach and Santa Ana.⁸⁸ The Eastern district mainly operated local lines in San Bernardino and Riverside counties. Fares depended on the distance traveled and were as high as \$1 a ride, compared to the nickel cost of local trolleys. As it grew, the PE largely abandoned local service to concentrate on its interurban traffic. In fact, it often refused to accept local riders in areas through which it ran, arguing that stopping to pick up passengers would interfere with its schedules.

In addition to continuing the popular Balloon Trip, the PE offered the Old Mission Trip (to San Gabriel) , the Triangle Trolley Trip (Los Angeles, Santa Ana, Huntington Beach, Long Beach and back), and the Orange Empire Trip (Pomona, Covina, and San Bernardino) which included lunch at the famous Mission Inn. The PE also owned amusements sites such as Fairmont Park in Riverside, at the plunge and dance hall and Redondo Beach. The company also ran special excursion trains to the Rose Parade in Pasadena, the annual Mission Play in San Gabriel, and the Los Angeles County Fair in Pomona. Trolley systems in San Bernardino offered a Poinsettia Route tour to Colton, Urbina Hot Springs, Base Line, Highland and Redlands. All these were intended to attract tourists to Southern California who might stay and purchase property.

⁸⁸Middleton (1961).

Lines of the Pacific Electric

Northern District

Pasadena Short Line (and Mt. Lowe)
Pasadena-Oak Knoll
South Pasadena
Sierra Madre
Monrovia-Glendora
Alhambra-San Gabriel-Temple
San Bernardino

Southern District

Whittier
La Habra-Yorba Linda
Santa Ana
Long Beach
Newport-Balboa
San Pedro via Dominguez
San Pedro via Torrance
Redondo via Gardena
Redondo via Hawthorne
Hawthorne-El Segundo

Western District

Redondo via Playa del Rey
Venice Short Line
West 16th-Sawtelle
Westgate
Santa Monica Air Line
Hollywood-Santa Monica-Venice
West Hollywood (Colegrove)
San Fernando Valley
Glendale-Burbank

Eastern District

Ontario San Antonio Heights
Pomona-Upland
Arrowhead
Highland
Riverside-Redlands
Riverside-Corona

Source: Swett (1975); Swett (1976)

Huntington's LARy, the Yellow Cars, provided an additional 300 miles of local service and actually carried 90 percent of all the region's rail passengers (see Text Box). The fare was five cents, though as time wore on many riders increasingly considered the service not worth the price, but the Los Angeles City Council refused to order a fare reduction. Ridership on the LARy declined from 1913 to 1918 but, like the PE, rebounded some during the early 1920s.⁸⁹ Today, the area covered by the LARy is served by MTA buses.

⁸⁹Bottles (1987).

Lines of the Los Angeles Railway

Avenue 20 Line
Eagle Rock Valley & Hawthorne
Georgia St. Line
Vermont Branch of Georgia Line
Grand Ave. & N. Broadway Line
Griffith & Griffith Line
Arcadia and West 6th Line
University and Central
Washington and Maple
West Adams and Hooper
11th St. Line
Jefferson and N. Main
West 9th and Brooklyn

Homeward & Vermont
Boyle Heights and Seventh Street
West 8th and East 4th Line
E. Seventh and Santa Fe Station
Temple Street Line
West 1st and 6th St. Loop
East 14th St. Line
Pico Heights Line
North Depot Line
Santa Fe Ave. Line
Seventh & Stephenson Line
Angeleno & Crown Hill Line
Main Street Line

Source: Crump (1970a).

The Roaring Twenties

Rail patronage, which had begun to decline after 1914, experienced an upturn in patronage in the early 1920s due to the population increase.⁹⁰ The clash of railroad titans had left two seemingly stable companies providing an extensive network of local and interurban lines. By 1923, Red Cars operated on 115 separate lines over one thousand miles of track in four counties, stretching a distance of 100 miles from the Pacific Ocean to San Bernardino, California.⁹¹ By mid-decade the transit industry in Los Angeles had much to celebrate. Ridership on the PE peaked in 1924 at 109 million passengers, and trackage reached its maximum of 1,164 miles in 1926.⁹² The PE had 800 cars in service. By 1925, the LARy was operating 397 miles of track and had 1,267 trolleys in service. But not all was success, patronage fell off seriously in Pomona after the war and the PE abandoned all local lines there in 1924. Service to San Dimas was also eliminated that year.⁹³

Despite the seeming success of the rail system, the riding public had begun to complain about the poor quality of transit service. They derided the streetcars as dirty and

⁹⁰Crump (1970a).

⁹¹Crump (1970a). See also, LACTC, Land Use/Transportation Policy, Background Report, 1991.

⁹²Bottles (1987).

⁹³Swett (1975).

unreliable, and accused the companies of mismanagement and corruption. Their general distrust of the railroad companies, which were accused, among other things, of bribing local politicians to maintain high fares, led the public to generally oppose any fare increase requested by the companies unless there were first some guarantees of service improvements. Pundits charged that the profits are in the straphangers as riders complained of not being able to find seats on many lines a sentiment echoed, as we shall see, in the BRU s campaign nearly a century later.⁹⁴

Progressive politicians had sought to regulate the streetcars as public utilities, establishing the Public Utilities Board in 1910.⁹⁵ This proved to have limited effect, however, as the Board repeatedly refused to permit the companies to raise fares, leading to further cuts in service and reduced patronage.⁹⁶ As service declined, the riding public gradually lost faith in the ability of government to reform transit operations.⁹⁷

Downtown boosters acknowledged the need to upgrade transit service. In 1922, the California Railroad Commission (CRC) agreed to grant the PE a fare increase only on condition that it would construct an underground facility in the downtown to speed

⁹⁴Crump (1970a).

⁹⁵The Board also regulated gas, electricity and telephone services. Bottles (1987). In 1913, these functions were assumed by the state Railroad Commission.

⁹⁶Wachs (1996).

⁹⁷Bottles (1987).

operations.⁹⁸ The PE completed the Hollywood Subway in 1925, which reduced some traffic conflicts. The tunnel stretched northwest from beneath the 12-story Subway Terminal Building that the company built at the site of its old Hill Street terminal, emerging a mile later near Beverly and Glendale Boulevards. The facility served trains running to Hollywood, Santa Monica, Venice, Glendale, Burbank, and the San Fernando Valley, and saved up to 15 minutes in travel time. The subway was part of a more ambitious plan by the PE to eliminate grade crossings in the downtown area through a series of underground tunnels and elevated structures.⁹⁹

Kelker-Deleuw Transit Plan

But further transit improvements had to be put on hold, however, pending completion of a city charter-required regional transit plan. The plan, commissioned by the city council and prepared by the firm of Kelker, DeLeuw and Company, proposed a radial system of new subways and elevated lines, tied into an extensive feeder bus network in outlying areas. Covering over 100 miles, the project's price tag was an estimated \$133 million.¹⁰⁰ Given the relatively low-density character of the city, public

⁹⁸CRC Order No. 9928.

⁹⁹Crump (1970a).

¹⁰⁰Equivalent to \$1,436 million in 2004 dollars.

subsidies would be needed to supplement farebox revenues. The plan was supported by downtown and even some suburban business interests as a means to reduce traffic congestion. Most suburban business interests however, opposed the radial rail system as a public subsidy to downtown companies and land interests, and counter to modern public health ideas favoring urban deconcentration.¹⁰¹

Public opposition to a proposed 3-cent fare increase to help fund the project as well as the aesthetic impacts of the proposed elevated tracks doomed the plan. Transit riders did not want to pay higher fares to subsidize the privately-owned railways. Property owners opposed the tax increases that would be necessary to subsidize a system that would not be self-supporting, even *with* a fare increase. Others were opposed to the use of elevated tracks that had proved unpopular in other cities. But the main concerns centered on the issues that have historically divided transit supporters and opponents in Los Angeles: (1) the perception that the plan would promote downtown growth and perpetuate downtown business interests domination of the regional economy, and (2) that the proposals to publicly finance transit improvements would simply result in a windfall to corrupt transit companies. Even more decisively though, transit policy became engulfed in a parallel public debate over building a consolidated rail terminal in downtown Los Angeles.

¹⁰¹Foster (1981); Wachs (1996).

The Union Station Controversy

For years, the City of Los Angeles had pursued legal avenues to force the major rail carriers to build a consolidated terminal in the historic Plaza area immediately north of the central business district (CBD), largely to eliminate numerous grade crossings that impeded traffic. Trains frequently backed up along a mile and a half stretch of Alameda Avenue trying to get to the Southern Pacific terminal at Fifth and Central or the freight yards north of the Old Plaza. As early as 1915 the Board of Public Utility Commissioners called for elevated tracks or subway lines downtown, noting the large number of accidents involving streetcars at intersections. The action set off a conflict that led to the battle over building a Union Station which would cloud the future of rapid transit in Los Angeles. In 1916, under pressure from the City to relieve congestion along Main Street, the PE did build an elevated approach to its downtown station at Sixth and Main from San Pedro Street, but it did little to eliminate the growing problem of congestion.

Downtown boosters argued that the city needed a central station to welcome visitors and favored the Plaza site as a way to stabilize declining real estate values in the historic area. The site would be linked to the City's new Civic Center with a wide mall. Following an extended court battle over whether the City or the Railroad Commission had jurisdiction over the project in which the California Supreme Court eventually sided with the CRC, the commissioners ordered the three railroads to eliminate all their grade

crossings at Alameda, Macy, Seventh and Aliso Streets and begin construction on the new depot. The railroads, however, successfully appealed the order to the California Supreme Court and its ruling was upheld by the U.S. Supreme Court. Meanwhile the Interstate Commerce Commission refused to order the railroads to comply claiming it lacked jurisdiction, but commented favorably on the Union Station plan.¹⁰²

The major railroads, Santa Fe, Union Pacific and Southern Pacific, were all opposed to the Union Station proposal since it would allow other companies to compete face-to-face for business. The SP proposed instead to construct 3 miles of elevated rail tracks through the downtown and to allow UP trains and PE streetcars to use their trackage. A new Central Station would be built at 4th Street and Central Avenue serving the PE and SP and UP trains, connected by elevated tracks on a private right of way from the PE Building. The existing PE elevated lines would be extended east to run south along Alameda and intersect another set of elevated tracks built east along Sixth Street across the Los Angeles River at which point UP trains would head south and SP trains north. From the station, southbound PE cars would head over the elevated structures and rejoin the Four Track to Long Beach at Ninth Street. Northbound cars would follow the SP tracks across the river and to Macy Street where they would join the existing line to Pasadena. Proponents claimed the plan would remove 1,200 trains a day from city streets, and eliminate 18,000 grade crossings a day in the downtown area. The \$25

¹⁰²Bradley (1979).

million¹⁰³ plan did not exactly produce the unified rail station that downtown boosters envisioned since the Santa Fe Railroad was not included but it also proposed to build a new terminal at the site of its La Grande Station at First and Santa Fe. In essence, the railroads offered a plan that promised to relieve congestion in the downtown area, if only the city would end its campaign for a single rail terminal and grant the major railroad companies franchises to operate separate terminals, and in essence bar any other railroad from having access to Los Angeles.¹⁰⁴

City officials pointed to the recently opened Hollywood Subway as a better alternative to elevated tracks and argued the Plaza site would be a better location to serve the proposed downtown subway system. The PE maintained that it could not afford the additional subway construction the City wanted, and that even the elevated tracks would be too expensive but that it was willing to contribute to the railroad plan as the most economical solution.¹⁰⁵

William Randolph Hearst's *Examiner* backed the railroad proposals as did many downtown civic and business interests (though one business organization, the City Club, also opposed the railroads' plan on the grounds that transit improvements would further

¹⁰³In 1925 dollars. Equivalent to \$270 million in 2004 dollars.

¹⁰⁴Foglesong (1993); Crump (1970a); Bradley (1979).

¹⁰⁵Bradley (1979).

concentrate development in the already congested downtown area). The rival *Los Angeles Times* favored the Union Station plan and attacked the railroads undue influence in city politics, noting that numerous public regulatory authorities had already approved the plan and been upheld in court. Opponents of the railroad proposal claimed the companies were just trying to thwart the will of the public and argued that transit improvements would merely encourage centralization. The solution to downtown congestion, they maintained, lay in supporting a policy of dispersing business and residences which offered a better opportunity for improving the quality of life in the region.¹⁰⁶

Unfortunately for transit advocates, the railroads proposal with its fairly limited number of elevated tracks on private rights of way was easily equated in the public mind with the over 80 miles of elevated railways along city streets called for in the Kelker-DeLeuw plan. Critics charged the railroad plan was just the first step toward putting unpopular elevated structures throughout the city. As a result, support for public transit improvements suffered from the longstanding public antipathy toward the railroads and backing the Union Station became seen as a way to block the elevated streetcars.¹⁰⁷ In a way, opposition to public transit thus became a part of a broader political strategy to resist economic and social control by downtown interests and to promote local autonomy.

¹⁰⁶Foglesong (1993).

¹⁰⁷Crump (1970a).

Local politicians, caught between the warring two camps, choose to place two separate non-binding resolutions on the ballot. Proposition 8, called for building a central terminal at some unspecified location, essentially favoring the railroad proposal. Proposition 9, specified construction of a Union Station at the Plaza site. In the 1926 election, voters overwhelmingly rejected the railroads plan and narrowly endorsed the Union Station proposal, an action widely perceived as a defeat for public transit.¹⁰⁸ With public support, the city pushed ahead with building the Union Station and the Kelker-deLeuw plan was quietly shelved.¹⁰⁹ There are still those who contend that Los Angeles missed a golden opportunity to create the backbone of an efficient transit system that would have reduced the need for automobiles and obviated the need to spending millions on freeways.¹¹⁰ Whether or not that is the case, it is clear that transportation planning in Los Angeles has remained a highly politicized football tossed among competing

¹⁰⁸Crump (1970a). The vote for Proposition 8 was No-115,493, Yes-72,714. The vote for Proposition 9 was Yes-94,404, No-90,464.

¹⁰⁹The project took years to complete however. In 1927, the CRC renewed its order to build the depot but the railroads appealed to the California Supreme Court. The City of Los Angeles petitioned the U.S. District Court in Washington D.C. to compel the ICC to assume jurisdiction and hold a hearing. The City then asked the U.S. Court of Appeals to intervene in the case and decide the question, which it did in favor of the City, holding that the ICC had jurisdiction over terminal construction. But, the U.S. Supreme Court reversed that decision in 1931. The California Supreme Court, however, eventually upheld the CRC order, and the U.S. Supreme Court affirmed that ruling. The railroads nevertheless contended that given the financial impact from loss of patronage due to the Depression they could not afford to build the depot so the City agreed to provide \$1 million toward the construction cost. Construction was delayed when the U.S. Post Office announced plans to use part of the site for its new Terminal Annex building, but later agreed to move a block north. Work on the Spanish-revival style station finally began in 1935 and the depot opened on May 3, 1939, to a massive city celebration including the staging of a Hollywood-style pageant entitled *The Romance of the Rails*. Bradley (1979).

¹¹⁰See Crump (1970a); Foglesong (1993); and Wachs (1996). For a more pro-automobile assessment, see Bottles (1987).

geopolitical interests.

One social consequence of the vote was that many Mexican-American families were displaced from their homes around the downtown Plaza by the construction and moved across the river to Boyle Heights in East Los Angeles, which was close enough to provide walking access to downtown jobs.¹¹¹ By 1930 the area had 90,000 residents, making it the largest Latino community in the United States as racial segregation prevented access to the northern or western portions of the city. Asian American residents of Chinatown were also forced to move further north.

The Pinnacle for Transit

As the Great Depression loomed ahead, the future for public transit in Los Angeles, which had never been very profitable to begin with, started to look bleak. Automobiles began to account for ever greater proportions of daily travel, particularly on weekends and off-peak periods, leaving the railways to service the increasingly costly peak periods. In addition to the private automobile, traction companies also began to face

¹¹¹Rios-Bustamonte and Castillo (1985).

direct competition from motor bus companies.¹¹² Rail transit was simply not profitable enough to attract the investment capital necessary to improve service and increase ridership.

Throughout the early 1920s the LARy showed modest profits. 1925, the LARy had over 1200 trolleys and nearly 400 miles of track. It had earnings of \$2.5 million but net income of only about \$200,000. It earned less than half that the following year and showed net losses the next. In 1927, the year of Henry Huntington's death, the LARy again sought and eventually received a 2-cent fare increase. The number of passengers carried fell by about 10 percent by 1929, but revenues increased from \$13.3 million to \$14.9 million and net income rose from \$100,000 to \$1.5 million.¹¹³ The situation was worse for the PE which despite a fare increase, continued to lose both passengers and money. Though the company's revenues exceeded operating expenses it was saddled with substantial debt. In 1923, it had recorded its first, and last, profit since 1914, just over \$330,000. After 1924, however, both the number of rail passengers and the amount of operating revenues generated fell. Throughout the decade, PE losses would average over \$1 million a year. In an effort to boost ridership the PE adopted its famous slogan Ride the Big Red Cars, adding a postscript touting their cars as Safe, Fast, and

¹¹²SCRTD, Transit Comparison Study, December 1985, p. II-7.

¹¹³Foglesong (1993), p. 179, Table 20; p. 182, Table 21.

Comfortable. It even offered all day passes on Sundays.¹¹⁴ But these efforts failed to stem the inevitable tide. The Golden Age of rail transit in Southern California was coming to a close, though it did briefly manage one last hurra during the later war years.

The Legacy of Transit

Though most of the tracks are long gone, the impact of the Big Red Cars can still be seen in the region's broad, carefully landscaped boulevards, such as Santa Monica, San Vicente, Venice, and Long Beach, all originally PE lines. However, the traction companies' focus on developing rail lines to promote real estate development and fend off parallel competition led to serious overbuilding. Lines were initially extended to areas where Huntington and his partners held real estate interests and often bypassed other communities where they did not, leading to public complaints about the availability of service. Critics also complained that Huntington charged higher fares for service to areas where he didn't have real estate interests. On the companies' part, the expense of maintaining lines for which there was little demand began to stretch their financial resources and made it harder to attract new investment capital. The PE, for example, averaged losses of \$1.5 million a year between 1912 and 1940. The LARy fared better but could never raise enough money to expand service. In addition, the PE and LARy

¹¹⁴Crump (1970a).

also refused to accept each other's transfers, which would have improved accessibility for transit customers.¹¹⁵ More critically, perhaps, the LARy and the PE had sought to connect the new suburbs with the downtown central business district, but had at the same time refused to construct cross-town lines which may have produced a more effective transit system.

Nor should it be forgotten that the tracks of Huntington's empire were mostly built on the backs of laborers recruited from Northern Mexico. Pay was generally better than other railroads but less than the standard pay for non-railroad labor, and workers were forced to live in company housing. By the mid-1920s public outcries over the workers' conditions forced the PE to construct 22 model camps but later investigations showed that they were little more than poorly constructed barracks without adequate living space or sanitation.¹¹⁶ Nevertheless, from the early days of century to the height of immigration in the 1940s, the railroads were the largest employers of Mexican immigrants to Southern California and the so-called railroad courts formed the basis of many present-day Latino communities.

The riding public, who viewed rail systems as monopolies that exploited working people, felt that streetcar lines should be regulated as a public utility, and demanded

¹¹⁵Bottles (1987).

¹¹⁶Crump (1970a); Crump (1970b).

improved service and reasonable fares.¹¹⁷ They complained that operators ran few cars outside the peak periods and would not provide free transfers to competing systems. Overcapitalization combined with public opposition to any increase in the five cent fares meant that the rail systems could ill afford the investments needed to improve their service without the prospect of accompanying real estate sales.

Most of the early transit companies were financial failures and were operated only until the real estate they provided access to was sold. They often had extensive track mileage compared to the number of passengers carried, which meant that they were often overburdened by debt incurred to construct the lines. Forced to confront low residential densities that kept ridership demand weak and farebox revenues low in relation to costs, traction companies tried to either raise fares, reduce service, or both in order to make up losses not covered by real estate sales, a pattern strikingly similar to not only to the entire industry at the time, but also much like the practices engaged in by the Metropolitan Transit Authority (MTA) in the 1990s which prompted the political campaign and lawsuit by the Bus Riders Union (BRU).

The process of urbanization that made possible an elaborate and extensive rail system in Los Angeles did not produce a highly centralized city with a dominant core on the eastern model, but rather a distinctive network of middle-sized towns connected first

¹¹⁷Bottles (1987).

by rail but, later, increasingly, by local roads and freeways. The new urban form would have dramatic consequences for the future of rail transit in the region as well as for other forms of transportation. Rail had been critical to the early development and expansion of the Los Angeles metropolitan area, in a largely radial pattern emanating from downtown. While the streetcars had played a major role in expanding Los Angeles, their success had also encouraged suburban commercial developments which rivaled downtown businesses. While the transit system encouraged urban decentralization on the one hand, it ironically reinforced the centralized spatial nature of the area and consolidated Los Angeles dominance over the regional economy.¹¹⁸ These opposing tendencies had direct political consequences as downtown interests vied for control with outlying areas.

These conflicts were frequently couched in fights over the nature of the region's transportation system. Downtown interests urged the city to develop a regional rail network to facilitate travel into the core while outlying business interests often opposed transportation policies that seemed to favor the CBD. This struggle between those desiring low density, single family semi-rural living and those wishing to retain a more centralized urban form has shaped the debate over public transit in Los Angeles from the 1920s down to the present day. Over time, that debate became increasingly centered on a choice between transit and its new competitor, the automobile. Ironically, the automobile offered opportunities for reconciling these diverse political and economic interests that

¹¹⁸Bottles (1987), p. 40.

transit did not. But the automobile created its own problems of congestion, and smog. When planners and politicians sought an answer they looked back to the Pacific Electric system created by Huntington and Harriman as their model of what an efficient practical public transportation system should be, despite the fact that it no longer reflected the social or spatial geography of the region and ignoring the structural problems that had led to its demise in the first place. Nevertheless, in most cases, the radial rail routes proposed in the 1980s were designed to use at least parts of the old PE rights of way. For instance, the present Blue Line follows the old Long Beach Line. The Gold Line traces the route of the Pasadena Short Line, and an extension is planned to Claremont using portions of the old route through Monrovia, Glendora, and Pomona. Through the San Fernando Valley, the new busway to Canoga Park uses portions PE s Chandler right of way. The cars of the proposed Exposition Line from USC to West Los Angeles will ride on the old Santa Monica Air Line (originally the Los Angeles and Independence Railroad). As described in greater detail in the following chapters, the MTA initially proposed to build rail lines to Santa Ana, Burbank, Glendale, Hawthorne, and Torrance, also covering much the same routes as the PE. The interurban system became the template for reasserting the primacy of downtown business interests over a region that had become even more diffuse because of the automobile.

The Automobile Age, 1910-1950

As previously discussed, in contrast to the pattern of many eastern cities, where transit typically followed growth, transit investment in Los Angeles often preceded and helped to produce urban growth.¹¹⁹ For the city builders of Los Angeles, suburban decentralization was seen as a spatial solution to the manifest problems of crime, poverty and moral contagion exhibited by densely developed cities like New York and Chicago. In this period, the newly created City Planning Commission and Regional Planning Commission actively promoted residential dispersal and business decentralization as an alternative to the congested urban patterns of eastern cities.¹²⁰

Low density, semi-rural living offered the prospect of model citizenship and good behavior.¹²¹ The disperse urban pattern was also ready-made for the arrival of the automobile, which Southern Californians quickly embraced as their own. The automobile offered greater flexibility and allowed the region to develop into areas beyond those that could be reached by the streetcars, but the growing dominance of automobile traffic created inevitable conflicts with the street railways. Autos and railcars competed

¹¹⁹Wachs (1984). While this clearly occurred in the case of the San Gabriel Valley, San Fernando Valley, Hollywood and the beach communities, Viehe (1981) argues that the oil industry was responsible for the growth and development of most of the suburbs in southern Los Angeles and northern Orange Counties.

¹²⁰Fogelson (1993).

¹²¹Foster (1971).

for street space, particularly in the inner-ring and downtown areas, prompting a number of initiatives to either reduce the number of autos in the downtown or to physically separate automobile and rail traffic. Despite these efforts, transit use began to wane.

Soon after 1910 the automobile began to overtake rail as the mode of choice for urban transportation. The automobile fit well into the already decentralizing urban pattern. Autos had their own significant impact on urban development as they were more capable of reaching areas not served by the radial system of rail lines, allowing developers to fill in the spaces between the rail lines. Thus, autos fostered spread out, low density residential and commercial developments that were not profitable to connect to existing rail lines. No longer tied to the transit lines to provide access to new subdivisions, real estate promoters soon began to demand that cities construct paved streets and thoroughfares for automobiles, financed through local improvement districts, and county and state construction bonds.¹²²

Automobiles also competed for space with rail cars on city streets, often leading to traffic jams and accidents. Rail cars traveling down the center of the streets impeded traffic and automobiles making left turns interfered with the rail cars. Passengers had to cross to the middle of the streets to reach the cars, further disrupting traffic. Even interurbans running on separate rights of way were affected as the number of grade

¹²²Foglesong (1993).

crossings were increased, slowing down service. Jitney services began appearing in 1914 that offered direct competition to rail service, though they were quickly placed under public regulation which limited their impact.¹²³ But even more crucial for transit, rising private automobile use also cut into rail patronage, particularly weekend service. As service became more concentrated on the weekdays, transit companies were less able to spread their costs over many trips at different times. As a result, the marginal cost to the companies of supplying peak period service began to increase significantly, adding to their existing financial dilemma.

As dissatisfaction with the transit system grew, the public turned increasingly to the automobile for its transportation needs and, as in the rest of the U.S., railway ridership began to fall. In his study of Los Angeles, transportation historian Scott Bottles argues that the public saw the automobile as a more reliable democratic alternative to the streetcar. Bottles ties the decline of the streetcar system to public frustration with the inability of public regulatory bodies like the California Railroad Commission (CRC) and the Public Utilities Commission to solve the problems associated with the streetcar. He argues that inefficiency, corruption and the failure of progressive politics led urban residents to abandon the streetcar in favor of the automobile.¹²⁴

¹²³The jitneys refused to take black passengers and their owners appealed to white prejudice to exert political pressure to avoid regulation. de Graff (1970).

¹²⁴Bottles (1987).

While the streetcar facilitated the development of residential clusters in outlying areas, most businesses in this period remained downtown.¹²⁵ With growing automobile use, competition for space with streetcars caused the downtown core to quickly become congested and merchants, worried that unless something was done to relieve the situation shoppers would abandon the central core for newer commercial areas in the rapidly developing suburbs, demanded a solution. The City's response set off a battle between those favoring downtown business interests and those opposed to centralization.

Following World War I, a joint report produced by the Railroad Commission and the Board of the PUC in response to another request by the LARy for a rate hike,¹²⁶ recommended that the City institute a ban on automobile parking downtown to alleviate the congestion that impeded streetcar operation.

Opposition to the ban came from downtown commercial businesses, the media, and the driving public. While most of the parked cars actually belonged to commuters who could have switched to the streetcars, downtown businesses feared that a parking ban would cost them revenue as retail customers would opt to patronize suburban business

¹²⁵Wachs (1984).

¹²⁶The PUC agreed that while the company was financially strapped, a rate increase could be avoided if the LARy would reroute tracks, purchase new more efficient equipment, and abandon unprofitable lines.

districts instead. While the PE and the LARy stood to benefit from the ban, improving streetcar service probably would not have led to any increase in shoppers. The *Los Angeles Times* opposed the measure as leading to further decentralization away from downtown. Public sentiment evinced continuing hostility toward the railroad companies. The City Council, though, recognizing that most commuters still used the streetcars and were opposed to any rate increase, initially favored the parking ban. As Bottles notes, the fight over the parking ban was really a fight over control of the local economy between downtown and outlying interests. The Los Angeles City Council drafted and adopted an ordinance in 1920 banning parking on city streets in the downtown area, but after a storm of public protests it quickly modified the law to ban parking only during rush hours and limited parking at other times. In the end, the city adopted a small no parking zone in the CBD, surrounded by a two hour restricted parking area. Still, local businesses complained that irate shoppers avoided downtown.¹²⁷

Motorbus Competition

While the downtown parking ordinance gave the city a slight bit of breathing room, the underlying problem of congestion remained. Clearly, the solution had to be found in improving the road system to better accommodate automobile traffic rather than

¹²⁷Bottles (1987).

trying to upgrade the streetcar system. Even the PE began to see the merits of rubber tired vehicles, or at least the potential threat they posed. Much as streetcars had challenged the steam railroad, the motorcar provided direct competition to the electric railways as local entrepreneurs converted heavy-duty trucks for passenger service. The PE purchased its first buses in 1917 and by 1923 had established feeder lines in San Bernardino, Redlands, Glendale, Alhambra, Santa Ana, Pasadena, and Beverly Hills, in some cases simply to forestall competition by rival bus companies.¹²⁸ Since the PE could offer transfers to its rail lines, it had an advantage over its rivals. The PE acquired the 16-mile long Huntington Park-Long Beach route in 1924 to protect its Long Beach Line. Similarly, it established a 19-mile line from Hollywood to Woodland Hills to save its San Fernando Valley operations. Additional bus lines were added in Whittier, Bellflower, and San Gabriel. As of 1927, the railroad operated 122 buses over 32 routes and carrying 820,000 passengers a month.¹²⁹ The LARy also started a bus line on San Pedro Street in 1922 and later added service on Wilshire.

¹²⁸Prior to 1924, all PE bus operations were placed under the Southern Pacific s Pacific Electric Land Company to avoid the 5¼% state tax on railroad income.

¹²⁹Bail (1984).

Los Angeles Motor Coach

Generally the LARy and the PE respected each other s businesses, but when the Peoples Motor Bus company filed a referendum petition to operated double-decked buses in Los Angeles in direct conflict with LARy and PE operations, the two companies agreed to form the Los Angeles Motor Bus Company (LAMB) to connect their respective territories. In the 1923 election the PE and LARy won by 12,000 out of 86,000 votes cast largely on the strength of their reputations for providing service. The LAMB began offering service on Western, Vine, La Brea, and Vermont, with free transfers to PE and LARy intersecting lines. The company was renamed the Los Angeles Motor Coach Company (LAMC) in 1927. In 1930, it purchased the West Side Transit Company, which had operated between the southern end of its Western Avenue line and Long Beach.¹³⁰

Some cities established their own municipal bus services. Upset over the PE s practice of charging higher fares on its Santa Monica lines than on those to rival Long Beach, the City of Santa Monica awarded a franchise to the Bay Cities Transit (BCT) Company in 1921, over PE threats to cut its service entirely. The company began running buses the 11 miles on Pico Boulevard to Vineyard in 1927 when its PE delayed putting a rail line in service and its temporary bus service had proven unsatisfactory. The BCT also

¹³⁰Bail (1984).

acquired the Community Merchants Bus Line which had operated double-decked buses along side PE trains on Venice Boulevard until the City of Los Angeles annexed the area in 1930 and shut down the popular Backwoods Bus Line. Today, the renamed Santa Monica Bus Company remains an independent transit provider, along with several other local municipal operators in the county. The City of Long Beach also resisted PE attempts to monopolize bus service in that community, instead awarding the city franchise to the Lang Motor Bus Company which offered lower fares.¹³¹

Asbury Rapid Transit

A number of other private motor carriers commenced operations in the 1920s. The Studio Stage Lines was granted local rights by the Los Angeles Board of Public Utilities and Transportation to ferry movie extras from Hollywood casting agencies to studios in Universal City and Culver City, over the objections of the PE and LARy. It next applied to the CRC for rights to operate between Hollywood and Santa Monica.¹³² The commission denied the application, provided that the PE would agree to provide

¹³¹Bail (1984).

¹³²Because of their potential to interfere with rail service, intercity buses were regulated by the Railroad Commission (CRC) after 1917 under the California Motor Carrier Act. Generally, the CRC allowed the first carrier to establish service along a route to have preemptive rights unless the operation was below standards. When, however, a private company was opposed by the PE, the Commission typically offered an exclusive franchise to the railroad, if it would agree to make adequate bus service available. In city service was regulated by the respective municipality.

service on the route. The PE delayed implementing a new line until the BCT forced its hand by applying for an extension of its own Soldiers Home line. In 1929, the PE finally added a bus route from Hollywood along Highland Avenue, Santa Monica, and Sunset Boulevard to the new UCLA campus in Westwood, with through service continuing along Wilshire Boulevard to the ocean.

In 1926, Studio Stage Lines merged with the Pasadena-Ocean Park Stage Line, which ran buses through Eagle Rock, Glendale, Hollywood, Beverly Hills and Sawtelle. In 1930, the company acquired the Original Stage Lines which operated bus service from Los Angeles to San Fernando and Burbank along San Fernando Road, and became Asbury Rapid Transit (ART).

Los Angeles Motor Transit Company

The motorcar also offered competition to interurban rail service. O.R. Fuller, owner of a local sales outlet for White trucks started the White Bus Line which operated to Anaheim via Whittier and Fullerton offering faster and less expensive service than the PE Whittier car line. It later became the Motor Transit Company operating three divisions from its terminal at 5th Street and Los Angeles in downtown. The Eastern Division provided service between Pasadena and Pomona, Ontario, and San Bernardino.

From there, the company offered sightseers the 101-mile Rim-of-the-World tour through the mountains above San Bernardino to Crestline, Lake Arrowhead, and Big Bear, returning via Redlands. The Northern Division served travelers to Palmdale, Lancaster, and Bakerfield. The Southern Division took passengers to San Pedro and San Diego. By 1925, Motor Transit operated 118 buses and carried 2.3 million passengers at a fare of 2½ cents per mile. It was however, prohibited from offering service between Los Angeles and Long Beach to protect the PE s established service, nor was it allowed to offer through service between divisions, again to limit competition with rail service.

In 1926, Motor Transit completed a merger with two other stage companies, giving up its long distance northern and southern routes, but acquiring competing local lines in Los Angeles and Orange counties. In 1928 it was awarded a route from Pasadena to Long Beach over the PE s objections, and year later successfully petitioned the CRC to lift some restrictions on providing local service and to remove the division restrictions to give it greater parity with PE operations.

In 1929, Motor Transit was sold to Pacific Greyhound Corporation, one-third of which was owned by Southern Pacific. The PE subsequently bought 2/3 of its stock and renamed the company Motor Transit Lines (MT). From there the PE began to replace various streetcar lines with MT coaches. The PE abandoned its Orange County Route to La Habra, Yorba Linda, and Fullerton in 1930. Local streetcar service in Santa Ana-

Orange was also ended in favor of buses. In all, 800 miles of rail lines were replaced by bus service, as the PE and MT consolidated their operations, along side the LARy and the jointly owned LAMC. The PE took full control of the company in 1936, and three years later it was dissolved and absorbed into the PE as its Motor Transit Division.¹³³

Los Angeles Major Traffic Street Plan

The proliferation of automobiles and buses only added to the congestion on city streets. Los Angeles of the 1920s suffered from a lack of thoroughfares connecting the downtown to outlying areas and few crosstown arterials that bypassed the CBD. As a result, through traffic had to traverse the downtown and added to congestion particularly since many of the city's local streets were narrow and discontinuous. In 1922, the Los Angeles Traffic Commission, a voluntary civic organization, called for a master street plan to relieve downtown congestion in order to avert further decentralization from the core. The Community Development Association also proposed a plan to widen specific streets. The Public Works Committee of the City Council, though, urged the city to undertake a street survey before preparing any new street plan.

In 1924, the Traffic Commission and the Automobile Club of Southern California

¹³³Bail (1984).

commissioned a distinguished group of civic engineers and city planners headed by Frederick Law Olmstead, Jr. to design a street and highway improvement plan. The resulting Major Traffic Street Plan called for the construction of a regional parkway system including crosstown arteries so drivers could avoid the downtown area and keep through traffic off residential streets. Wilshire Boulevard would be redesigned to become the city's major commercial artery. The first major commercial center to be developed outside downtown, a linear shopping district catering to automobile traffic known as Miracle Mile, was established west of downtown along Wilshire.¹³⁴ The Plan also recommended the separation of automobiles and streetcars, the construction of a downtown subway, and widening some 100 miles of streets in the city and county. The proposed transportation projects, some 200 in all, would cost millions of dollars and taken many years to complete. The first phase alone was estimated to require \$25 million¹³⁵ in funding, financed primarily through taxes and special assessments. The city placed the plan and an initial \$5 million bond issue on the ballot, which were both easily approved. The plan resulted in the widening or construction of many of the city's present boulevards and for a time these measures helped to relieve crowding in the downtown.¹³⁶

As it was implemented, the Major Street Traffic Plan provided some temporary

¹³⁴MTA, Historical/Architectural Resources. This area would later become the focus of planning for the Red Line subway.

¹³⁵In 1924 dollars. Equivalent to \$276 in 2004 dollars.

¹³⁶Bottles (1987).

relief from congestion. By the 1930s, however, it was again obvious that the growth in automobile travel had outstripped road capacity. The city still lacked adequate crosstown thoroughfares. As discussed above, downtown interests sought to develop a network of grade-separated rail facilities radiating from downtown to rapidly growing outlying areas to draw shoppers into the central core.¹³⁷ These plans were supported by residential developers in outlying areas but were understandably opposed by suburban business interests. At the same time, proposals to develop a regional transit agency, with the power to issue bonds to finance improvements, also foundered due mostly to suburban opposition.¹³⁸ By contrast, both downtown and suburban interests favored highway improvements. Downtown boosters felt that highways would improve access to the CBD while suburban interests felt highways would decrease congestion.¹³⁹ Proposals made in 1937 by the Automobile Club of Southern California for the city to develop a grid network of regional freeways sought to balance these competing regional interests, but downtown interests felt the plan still too decentralized despite the inclusion of some downtown radials.

¹³⁷Adler (1991).

¹³⁸Adler (1991).

¹³⁹Bottles (1987).

Transportation Engineering Board Plan

In 1939, the City Transportation Engineering Board (TEB) proposed a highway and transit plan designed to appeal to a wide array of interests. While modeled after the 1937 Auto Club plan, the TEB transit plan contained significant differences. Instead of focusing on increasing roadway vehicle carrying capacity, the TEB plan aimed to maximize travel options through a multi-modal approach combining autos, streetcars, and buses. The plan consisted of a ring-radial system of limited access freeways that closely resembled the present freeway system. The plan suggested that buses could use the system to provide mass transit but also urged the eventual development of a radial rail system, this time using the median strips of the proposed freeways. These rail lines would connect to a proposed downtown public subway system that would replace surface streetcars. The plan also included a rail line running along Wilshire Boulevard.¹⁴⁰

The plan was endorsed by the City Planning Commission and the County Regional Planning Commission. It also proved popular with the public. Downtown business interests thought it would help them regain their economic position in the region. Suburbanites liked that it favored continued decentralization and improved access. Real estate developers hoped the system would encourage residential expansion. The private transit companies, however, were opposed to the plan's radical proposal for

¹⁴⁰Taylor (2000).

public involvement. While land acquisition and construction commenced on several segments of the plan (including the Arroyo Seco Parkway to Pasadena completed in 1940, and the Hollywood Parkway to the San Fernando Valley) little progress was made prior to World War II due to lack of funding for such an ambitious plan and the streetcar company's opposition to public ownership.¹⁴¹ The PE did eventually relocate its existing tracks to the center of the new Hollywood Parkway, but this was the only instance of transit-on-highway service in Los Angeles, until the 1990s. The failure of this dramatic attempt to link automobile and transit systems helped ensure the eventual decline of the street railways.

After the war, pre-war highway proposals, backed by the Automobile Club of Southern California, gained steam. The Los Angeles Metropolitan Parkway Engineering Committee developed a 10-year program for priority freeway construction based on radial downtown routes.¹⁴² The main obstacle remained establishing a reliable source of funding. The state had adopted a motor vehicle fuels tax in 1923, but most of the funds generated were used to maintain roads in rural areas even though most of the revenues were generated in urban areas. In 1947, the urban and rural legislators endorsed a compromise in the Collier-Burns Act which significantly increased the state gasoline tax and guaranteed that the additional revenues would be specifically targeted to highway

¹⁴¹Taylor (2000).

¹⁴²Adler (1991).

construction projects, including several in the Los Angeles region.¹⁴³

A year later, Congress passed the Federal-Aid Highway Act of 1948 making federal funds available to states for highway projects. With funding prospects improved, the Automobile Club advanced a new proposal for a system of regional parkways, not too dissimilar from their 1937 plan, which combined both radial and grid elements.

The real impetus for freeway construction came, however, with passage of the 1956 Federal-Aid highway Act which authorized the National Highway System and gave authority to state highway departments to designate highways to be eligible for federal funds. In the 1958, the state adopted and approved a proposal for a series of largely radial freeways designed to relieve congestion in downtown Los Angeles (though more grid-like in outlying areas), representing a major victory by downtown business interests.¹⁴⁴ The proposed freeways by and large followed many of the earlier radial streetcar routes. But by combining grid elements, the highway plan garnered wider political backing, enabling it to take advantage of state and federal funding. Though not all the proposed routes were ever constructed, most of those that were were designed to connect the downtown to many of the same locations served by the Red Cars as clearly evidenced by their names: Pasadena Freeway, Glendale Freeway, Hollywood Freeway,

¹⁴³Brown (1998).

¹⁴⁴Taylor (1995).

Santa Monica Freeway, Harbor Freeway, Long Beach Freeway, Santa Ana Freeway, and San Bernardino Freeway.

The Role of the Automobile

The automobile industry and the federal highway system did not, as some assert, single-handedly destroy transit. As seen in the previous section the transit industry was in serious distress due to overbuilding, high debt loads, mismanagement, and certainly in the case of Los Angeles, a certain indifference from its parent railroad company owners. Nevertheless, the more the greater personal travel flexibility and comfort offered by the automobile, particularly for non-commute trips, represented too much competition for transit to overcome. As a result, transit began to be relegated to serving an increasingly smaller share of the travel market. As described in the following section, despite a brief resurgence due to World War II, the transit industry in Los Angeles, like those in other cities, had little choice but to begin the process of abandoning rail lines in favor of rubber-tired vehicles. Indeed, it is part of the uniqueness of role of transit in the development of Southern California that it actually held on here far longer than in most other parts of the country.

The Decline and Rise (and Further Decline) of Transit, 1930-1965

During the 1930s, the population of Los Angeles continued to expand though at a slower pace. The city added about 300,000 new residents over the decade. The Depression created high unemployment but also led to an influx of new residents. The black population nearly doubled during the decade, largely due to continuing southern migration.¹⁴⁵ African Americans living in Los Angeles in the 1930s were relatively prosperous. Roughly 30 percent of black families owned their own homes, 42 percent owned automobiles, and 76 percent had some form of insurance.¹⁴⁶ Scores of poor whites also arrived from the Dust Bowl states, many settling east of the Cotton Curtain along Alameda Avenue, which separated them from the black neighborhoods to the west. The Asian population increased slightly.

The war years brought a dramatic increase in the population of African Americans. The small settlement of African Americans that had begun to expand throughout the 1920s and 1930s, exploded in size during and after World War II as African Americans migrated to Los Angeles to work in the defense industry. Between 1942 and 1945 almost 200,000 black immigrants arrived, most forced to settle in the

¹⁴⁵Bunch (1992).

¹⁴⁶de Graff (1970); Sweeting (1992).

Central Avenue district due racial segregation elsewhere in the city.¹⁴⁷ As a result, a thriving African American community emerged and the area saw a brief resurgence of prosperity as a focal point of black music and entertainment.¹⁴⁸

The war years saw also many Mexican-American men joining the armed forces as women worked in defense industries. During this period the Latino population of the city nearly tripled. Though many Latinos were employed in industrial district around Vernon and Central Avenues, most lived south and east of the city.¹⁴⁹ But 1943 also marked the infamous Zoot Suit riots as young pachucos were attacked by scores of recently discharged navy and marine veterans, angered over the prospect of job competition.

Following the Second World War, Southern California continued to grow. The population of Los Angeles reached nearly 2 million by 1950 and hit 2 ½ million just a decade later. The African American population of the city increased tenfold from 1940 to 1965. The proportion of Latinos in the population also rose. In the post-World War II period, rising incomes and the availability of low interest mortgages facilitated the move of most remaining Jewish families from Boyle Heights to the Fairfax District, the Westside and the San Fernando Valley. Latinos moved in as other groups left. By the

¹⁴⁷Collins (1980)

¹⁴⁸Sweeting (1992).

¹⁴⁹Rios-Bustamante and Castillo (1986)

mid-1950s, Boyle Heights was 95 percent Latino, as it remains today.¹⁵⁰ During the 1950s, in addition to the largely unincorporated county area to the east known as East Los Angeles (Belvedere, City Terrace, Maravilla), Latinos also lived northwest of downtown in Chavez Ravine. Construction of Dodger Stadium in the 1950s and several major downtown freeways in the 1950s and 1960s displaced thousands of Latino families from Chavez Ravine and from Boyle Heights, Lincoln Heights, and City Terrace, and contributed to the social and political activism that gave rise to the Chicano Movement.¹⁵¹

The South Central area began to decline economically in the post-war period. Construction of the Harbor Freeway in the 1950s bisected the area on the west. Most of the housing was single family and in poorer condition than other areas of the city. The massive increase in population, lack of housing choices, and rising black unemployment following the war gradually led the South Central area to take on the characteristics of a slum.¹⁵²

¹⁵⁰Romo (1983).

¹⁵¹Griswold del Castillo (1982); Hines (1982).

¹⁵²de Graff (1970).

The Depression Years

The transit industry was hard hit by the Depression. Southern Pacific, which had purchased the PE lines mainly to obtain profitable freight connections, gradually lost interest in providing passenger service and began to cut back operations.¹⁵³ Competition from rubber tired bus transit companies, such as the Motor Transit Company formed in 1920, also cut into revenues. After 1932, the PE could not even cover its operating expenses out of the farebox. Outlying commercial areas that had grown up largely due to the original rail system began attracting more automobile customers, particularly in the off-peak hours, leaving the rail companies to serve the more costly peak periods.¹⁵⁴

In 1933 the Central Business District Association commissioned Donald N. Baker, a traffic engineer, to produce a plan for rail service in the downtown area, entitled *A Rapid Transit System for Los Angeles*. Baker recommended that the city (1) extend the Hollywood Subway to Glendale, (2) build subways to Pasadena and Santa Monica, and (3) construct elevated lines to Long Beach. Though billed in part as a job creation measure, the estimated cost of \$37 million¹⁵⁵ proved too much in the midst of bad

¹⁵³Adler (1991).

¹⁵⁴Adler (1991).

¹⁵⁵Equivalent to \$538 million in 2004 dollars.

economic times.¹⁵⁶

Throughout the 1930s, the PE and LARy responded to declining patronage by deferring maintenance, reducing investment, and where possible converting rail lines to bus service.¹⁵⁷ Passenger service to El Segundo stopped in 1930 but the line remained an important freight route. Service to Whittier ended in 1938, replaced by Motor Transit buses. In its Eastern District, passenger service to Arrowhead was discontinued in 1932, from Pomona to Claremont in 1933, and from San Bernardino to Highland in 1936. Service between San Bernardino and Redlands was discontinued the same year and turned over to Motor Transit Lines. On the Northern District, the PE cut back its oldest South Pasadena line (the original Pasadena & Los Angeles route) to General Hospital also in 1933. The remainder was replaced by LARy and PE buses. It reduced service on the Los Angeles-Glendale-Burbank route in 1936. In response to a request by the Original Stage Line to operate interurban buses from Los Angeles to North Hollywood, Van Nuys, and San Fernando in the Western District, the PE offered to establish two new bus lines and two feeder routes to replace its entire rail line to the Valley. The proposal was rejected by the CRC, though in 1938 the Commission did allow the company to cut its rail service back to Van Nuys and substitute feeder buses for the remainder of the route.¹⁵⁸

¹⁵⁶Crump (1970a)

¹⁵⁷Adler (1987).

¹⁵⁸Swett (1975).

In 1937, the PE applied to the Railroad Commission for fare increases covering its street car and motor bus lines. Concern that a fare increase would not solve the company's financial problems and widespread public dissatisfaction with the company's service prompted the Commission to order a 16 month study by Arthur C. Jenkins outlining a program for rehabilitation for the PE. The 1100 page Jenkins Report criticized the complicated financial relationship between the PE and its parent Southern Pacific which contributed to excessive debt, aging equipment, and inadequate maintenance. It recommended (1) abandonment of least-used passenger and freight operations, and substitution of buses for rail lines not meeting their cost of maintenance and taxes, (2) replacement of older rail cars still in service (some dating from as early as 1902), and (3) repair of tracks and roadbeds that had suffered from deferred maintenance. The PE largely ignored the suggestions to improve rail service, but did begin to discontinue some of its lesser used lines.¹⁵⁹ Meanwhile, in response to public complaints, the Railroad Commission did order the company to reinstate full service to Glendale and purchase new rail cars for the route. The company ordered 30 new Presidents Conference Coach (PCC) cars, the only modern rail cars it ever bought.¹⁶⁰

From 1940 to 1941 the PE discontinued interurban service to Redondo Beach,

¹⁵⁹Bail (1984).

¹⁶⁰The PCC cars were a joint venture of a number of streetcar companies to produce an industry standard car. Carlson and Schneider (1980).

Newport Beach, and Alhambra. Service to Santa Monica (via Beverly Hills) was replaced by Motor Transit buses, but the local West 16th Street Line to Vineyard was extended to West Hollywood. Rail service to San Bernardino was cut back to Covina. Service from Rialto to Riverside was discontinued. The remainder of the South Pasadena line was shut down.¹⁶¹ The Los Angeles-Hollywood-Venice car line was also eliminated, and LAMC buses replaced rail lines on San Vicente from West Los Angeles to Santa Monica.¹⁶² The local streetcar line to Hollywood was extended to serve Beverly Hills. The company also stopped running trains to Fullerton and Riverside. The Pasadena-Oak Knoll line was kept in service, but only because South Pasadena refused to permit PE buses on its section of the Arroyo Seco Parkway.

The PE also began to sell off some of its local bus and trolley lines in order to concentrate on its interurban routes. PE buses in Glendale and Pasadena were sold to Pacific City Line (later named Glendale City Lines), a subsidiary of National City Lines, which provided replacement buses for local rail lines. Local trolley service in San Bernardino was transferred to the San Bernardino Valley Transit company.¹⁶³ The PE

¹⁶¹Crump (1970a); Swett (1975); Swett (1976).

¹⁶²The CRC had also wanted the PE to upgrade its rail line to the beaches with PCC cars but the PE wanted to replace the entire Hollywood Line and the Venice Short Line west of Culver City. In a compromise, the Venice Line was maintained but the Santa Monica via Beverly Hills Line, including the portion in Brentwood, was replaced by buses running on Olympic Boulevard from downtown. The PCC cars proved too heavy for the Venice line tracks and were returned to the Glendale route. Bail (1984).

¹⁶³Crump (1970a).

also dropped its local lines in Long Beach, which were taken over by the Lang Motor Bus.¹⁶⁴

The LARy also struggled along. It bought 60 new PCC cars in 1936 and painted them chrome yellow and lemon yellow. The company added an additional 35 a year later and 30 more in 1942. But it also substituted buses for 16 of 24 routes over the period 1941 to 1945.¹⁶⁵ Generally, for both the PE and LARy this was a period of minor upgrades to some rail service, and gradual replacement of lesser patronized rail lines with buses.

World War II and a Brief Reprieve

World War II brought a brief surge in rail patronage due to the shift in resources from civilian automobile and tire production to supporting the war effort, as well as a massive influx of population to the burgeoning defense industry. The war brought new business to the PE and by 1945 total ridership hit 180 million and rail patronage once again reached its 1924 peak of 109 million passengers (see Figure 4.2). Rail service was reinstated to Newport Beach with a branch to Terminal Island and buses to Balboa. The

¹⁶⁴Bail (1984).

¹⁶⁵Bail (1984).

company once again showed a net profit. Despite higher ridership, rail cars and tracks further deteriorated during the war years from the added use and lack of maintenance.¹⁶⁶

Additional buses were also pressed into service. Asbury Park Transit added service to the Union Air Airport in Burbank, and to the Lockheed plant. Shortly after the war it also extended service to Roscoe (now Sun Valley) and Sunland. The LAMC added four defense plant routes in 1942 from the end points of LARy routes.¹⁶⁷

In 1944, the LARy was sold to American City Lines, a subsidiary of National City Lines (NCL). The new owners renamed the company the Los Angeles Transit Lines (LATL) and continued the policy of gradually replacing rail cars. The company purchased 110 Brill trolley buses which went into service on the #3 West Sixth Street-Central Avenue and #2 City Terrace-Harper Avenue lines.¹⁶⁸ It also upgraded its rail operations, purchasing 40 PCC cars which were painted in the company's new yellow, green and white "fruit salad" colors.¹⁶⁹

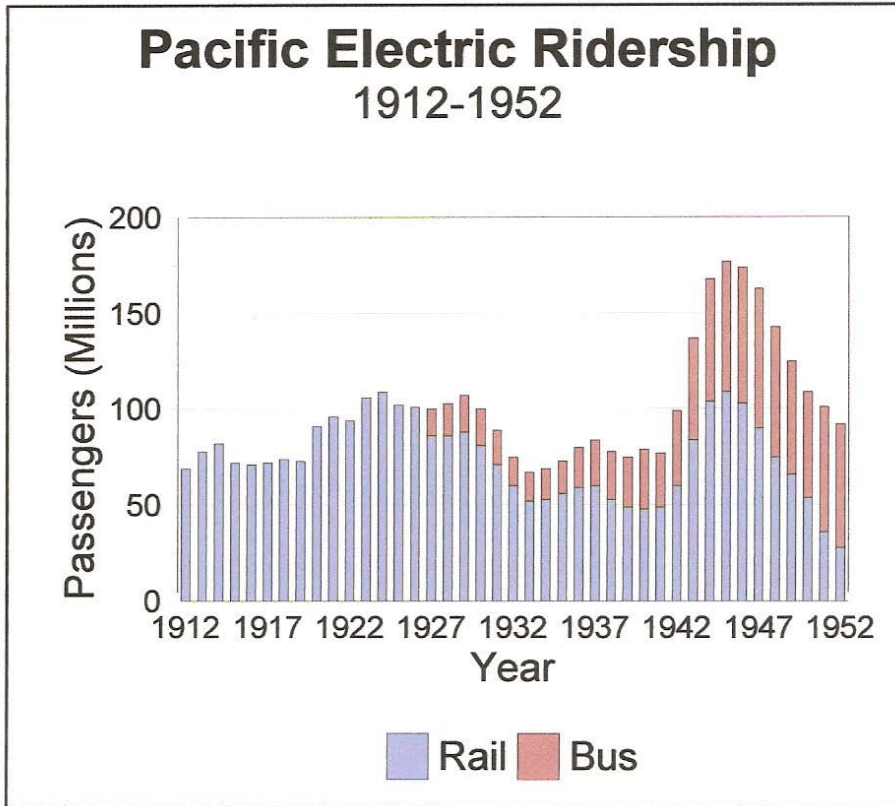
¹⁶⁶Adler (1991).

¹⁶⁷Bail (1984).

¹⁶⁸ERHA, "The Los Angeles Transit Lines- The Trolley Bus in Los Angeles," accessed at www.erha.org/latl.htm.

¹⁶⁹Bail (1984).

Figure 4.2. PE Ridership, 1912-1952



Source: Data compiled from Crump (1970a), Appendix E.

Post-War Decline of Transit

As automobile production resumed after the war, transit use again began to decline, especially in the off-peak and on weekends, increasingly concentrating ridership in the morning and afternoon rush hours. The higher costs of serving primarily peak-period ridership also discouraged further investment in the crumbling rail systems. As a result, the financial problems for the railways only worsened. Beginning in 1946 the PE expanded some bus routes in the growing San Gabriel Valley, and substituted bus service for rail on the San Bernardino Line from Baldwin Park to Covina. It also received permission to expand bus service in the San Fernando Valley, but only by promising not to cut rail service.

The PE was awarded a 15 percent fare increase in 1946, the first since 1940, and another increase in 1947 after posting a \$1.7 million deficit. The increases equalized fares between the LARy and PE in the downtown areas and the two companies agreed to offer free transfers. Lacking adequate capital for expansion, the street railway companies could not hope to expand rail service to attract riders back, but the PUC was concerned that without service improvements further fare increases would only result in only lead to further losses in patronage.¹⁷⁰

¹⁷⁰Adler (1987).

In the meantime, a number of proposals were again surfacing to develop a regional rail network and there was pressure to prohibit the PE from abandoning any more rail lines until it could be determined whether they would be needed for a new publically-financed transit system. In 1945, a study commissioned by the Mayor and prepared by DeLeuw, Cather and Company concluded that the downtown could become a major corporate headquarter site if rail lines were included in the median strips of the new freeway system. Based on the study, the Los Angeles Chamber of Commerce proposed creating a transit district responsible for developing rapid transit lines in freeway medians and upgrading lines used jointly by SP and the PE to create a regional rail rapid transit system.

Following the Chamber's lead, in 1947, the PE requested permission from the state and the city to build a trolley line in the center of the new Hollywood Freeway, and suggested that this could be a model for future transit development. But a bill submitted in 1947 to the state legislature by the City of Los Angeles to permit transit to be developed in conjunction with the proposed freeway construction was significantly weakened before it passed. Legislators considered the projected \$20 million¹⁷¹ cost of the plan excessive, and state highway engineers believed that buses using the freeways

¹⁷¹Equivalent to \$169 million in 2004 dollars.

could provide adequate transit service.¹⁷² In the final bill, funds from the state motor fuels tax could only be used to construct bus stations not rail along the freeways, which effectively scuttled plans to develop rail lines in conjunction with highways as proposed in the 1939 TEB plan.¹⁷³

A new study by the Public Utilities Commission (PUC), successor to the CRC, into the operations of the PE, LATL, and LAMC urged a change from the policy of bus conversion to planning for a new regional rail network. The study, authored by Arthur Ager, recommended that the PE purchase 50 additional PCC cars and upgrade bus facilities in Van Nuys and Ocean Park, as the foundation for a future rapid transit system offering peak-period express service from the suburbs to downtown. It also urged that rail be included in the planned extension of the Hollywood Freeway to the San Fernando Valley. The plan would have cost an estimated \$11.4 million,¹⁷⁴ including \$5 million for improved trackage. The PE asked the commission to delay ordering any changes until it could study the plan.¹⁷⁵

¹⁷²Adler (1991). Since the state Constitution prohibited the use of gasoline tax monies for transit projects, the bill would have reimbursed the state the cost of construction from transit revenues.

¹⁷³Crump (1970a).

¹⁷⁴Equivalent to \$96.6 million in 2004 dollars.

¹⁷⁵Adler (1991).

The RTAG Plan

With the huge postwar increase in population in Los Angeles, there was again interest in developing a rail network centered on downtown. Recognizing that rail service was very expensive to provide, a private organization of businessmen, the Regional Transit Action Group (RTAG), lobbied the City to create a metropolitan transit district with the power to issue general obligation bonds backed by fare revenues and a general property tax. The RTAG also developed a \$310 million¹⁷⁶ proposal for a radial rapid transit system, including service on freeway medians, upgrading existing PE interurban lines to rapid transit status, and expressway bus facilities.¹⁷⁷ The plan, published as *Rail Rapid Transit Now!*, contained a number of routes that would resurface as proposals years later in the 1960s and 1980s, including rail rapid transit lines radiating from downtown (1) west along Santa Monica Boulevard; (2) northwest from downtown through the Hollywood Subway to Hollywood Boulevard, and through the Cahuenga Pass (Hollywood Freeway) to Burbank, then west along Chandler Boulevard in the San Fernando Valley; (3) south along Harbor Boulevard to Long Beach and San Pedro; (4) east out Huntington Drive and Ramona Boulevard to Pasadena, Sierra Vista, and El Monte; and (5) southeast along Santa Ana Boulevard. The plan relied on a number of existing PE lines and called for the purchase of 580 articulated PCC cars, each capable of

¹⁷⁶Equivalent to \$2,626 million in 2004 dollars.

¹⁷⁷Adler (1987).

carrying 110 passengers.¹⁷⁸ Proponents viewed this as a chance to put rail on freeways at relatively low cost.

In addition to downtown boosters, business interests in Hollywood and the San Fernando Valley supported the RTAG plan, convinced that high-speed rail connections to their areas would encourage growth. On the other hand, other suburban areas with established commercial centers like Long Beach and Santa Monica opposed the continuing focus on the downtown. Still others worried that incorporating transit projects would further delay freeway construction. Even the railways were leery of plans to upgrade their lines since increased transit service would interfere with their freight operations but were willing to go along with a plan that could address the transit problem. Although RTAG members tried to downplay the specifics of their rail proposal in preference to establishing a regional transportation authority with the power to issue bonds and levy taxes to finance a regional system, opposition from suburban interests remained strong. The RTAG proposal to make the County Board of Supervisors the operating board of the new transit agency was also opposed by local cities who demanded to be represented in any such agency. The proposal was unable to gain the support of enough state legislators to have the issue placed on the November 1948 state ballot, though it did underscore the need for widespread regional representation in any future

¹⁷⁸ERHA, 1948 Light Rail Vehicle Design for PE Lines, accessed at www.erha.org/rtag1948.htm.

transit proposals, as currently reflected in the composition of the present-day MTA.¹⁷⁹

The RTAG proposal to tax the general population to support a system designed to draw shoppers to downtown locations, was vehemently opposed by suburban business interests who once again saw this as a drain on their customer base. As the city expanded, more jobs for the growing workforce were locating outside the downtown area. Suburban commuters were more interested in efficient crosstown service that would tie the region together than in supporting suburb-to-downtown service and businessmen in outlying centers were often more interested in projects that would encourage economic growth. As with previous proposals, taxpayer organizations were also opposed to taxing the general public for a system that would mainly benefit downtown interests. The City Engineer also argued against delaying priority freeway construction to establish a transit district, suggesting that it would be no more costly to simply extend the Hollywood Subway to Hollywood, though this did not satisfy interests in the San Fernando Valley who continued to push the transit district plan.¹⁸⁰

The RTAG proposal was restructured for submission in the 1949 election to include municipal representatives on the governing board and limit the participation by the City of Los Angeles. It was also revised to provide that all costs would be paid from

¹⁷⁹Adler (1987).

¹⁸⁰Adler (1991), p. 74.

transit fares, with property taxes used only as a last resort to appease businesses and homeowners. But, the Los Angeles City Council eventually voted against asking the legislature to place the measure on the ballot. Among those council members to vote against the proposal was Kenneth Hahn, who represented an area south and west of downtown.¹⁸¹ Over the next several decades, as a County Supervisor, Hahn would become a strong advocate for improved transit service for his low-income constituency.

The Demise of Rail Transit

The PE had warned that it would have no choice but to begin abandoning rail lines if the RTAG proposal failed. In 1949, the company responded to the PUC proposal with its own \$7 million¹⁸² modernization plan for bus substitution, prepared by Arthur Jenkins, who had authored the Commission's 1939 study. The PE proposed to modernize its system by eliminating rail passenger service and substituting buses, in part to eliminate conflicts with the SP's freight trains. The company proposed to (1) end all passenger service on its Northern District, (2) retain its Glendale-Burbank and Hollywood Lines in the Western District, and (3) keep only the Watts, Long Beach and San Pedro lines in the

¹⁸¹Adler (1987).

¹⁸²Equivalent to \$55 million in 2004 dollars.

Southern District. Two hundred new buses would be purchased to complete the plan.¹⁸³

The PUC considered the PE's proposal to upgrade some service while completing the transition to bus service. The following year, despite opposition from representatives from the San Fernando Valley, the PUC agreed to allow the PE to begin abandoning rail lines and substituting buses.¹⁸⁴ Service was eliminated to Pomona and Baldwin Park in 1950, and the Sierra Madre, and Pasadena-Oak Knoll lines were shut down. Finally, the PE also dropped service to Glendora and Monrovia when it became necessary to relocate its tracks for the San Bernardino Freeway and the company contended it did not have the funds to complete the work. After that there were no more interurbans operating in the Northern District. In the Southern District, the line to Santa Ana was cut back to Bellflower. In the Western District rail service to Venice was replaced by Motor Coach buses, but the line to West Hollywood via Vineyard eliminated without bus replacement. In 1952, the PE replaced its remaining San Fernando Valley routes with buses, leaving only the routes to Hollywood and Glendale operating through the Hollywood Subway. Passenger runs on the Santa Monica Air Line ended in 1953.¹⁸⁵

The PUC requested that the PE delay disposing of any abandoned rights of way

¹⁸³Bail (1984).

¹⁸⁴CRC Dec. No. 44161 (May 9, 1950).

¹⁸⁵Crump (1970a); Swett (1975); Swett (1976).

for a year, but despite concerns about the possible loss of land that could be used for public transit, the City of Los Angeles was financially unwilling to purchase the now available railroad property.

By the early 1950s, the PE was left with only 750 miles of rail, mostly used for freight, and just 203 rail cars compared to 472 in 1945. On the other hand, the number of buses it owned had increased from 340 to 660 over the same period. Since the PE was planning to convert all its rail lines to buses, the PE and LATL agreed that the LAMC would be dissolved. The PE transferred 128 yellow and white buses to its fleet and began painting them PE red. Still, the conversion from rail to bus had not solved the company's financial problems as it posted a \$1.12 million loss.¹⁸⁶ The railroad began looking for a buyer.

¹⁸⁶Bail (1984).

Metropolitan Coach Lines

The PE sold all its passenger operations in 1953 to Metropolitan Coach Lines (MCL), a company owned by a National City Lines associate, and the new ownership continued the policy of abandoning rail service.¹⁸⁷ The \$7.2 million sale agreement contemplated that MCL would eventually suspend all passenger operations over PE right-of-way so as not to interfere with the PE's freight operations. MCL also purchased the Asbury Transit Company a year later for \$150,000 and repainted the buses to match the two-toned green and white Metro color scheme. It also inaugurated bus service to Disneyland and Knott's Berry Farm.¹⁸⁸

At the time, Red Cars still ran to Watts, Bellflower, Long Beach, San Pedro in the Southern District and through the Hollywood Subway to Hollywood and Glendale in the Northern District. Between 1953 and 1958, with the exception of the original Long Beach Line, MCL converted all remaining passenger rail lines to bus service.¹⁸⁹ It replaced the Santa Monica Boulevard-West Hollywood route with buses in 1953 and a year later ended service on the Hollywood Boulevard line. Despite PUC approval, the City of Los Angeles only agreed to the Glendale line being removed after MCL decided it

¹⁸⁷The transfer was authorized by the PUC, Decision No. 48923, August 4, 1953.

¹⁸⁸Bail (1984).

¹⁸⁹Crump (1970a). MCL's request to replace its Los Angeles-Long Beach rail line with bus service was denied by the PUC, Decision 51111, February 15, 1955.

the right of way and to provide replacement bus service to Santa Monica. The recently purchased PCC cars were all put in storage in the now unused Hollywood Subway. At this time MCL operated 53 bus lines over 1315 route miles and four interurban lines on 68 miles of track.

The PUC permitted the Bellflower line to be dropped in 1957, and the San Pedro run in 1958, but refused to permit the Long Beach line to be abandoned despite the fact that under the terms of the sale, MCL would have to begin paying rent on the tracks and all maintenance costs for the overhead electrical equipment. Failing to receive permission to abandon its last remaining interurban line, the company chose to purchase the power facilities and the PE s 78 remaining interurban cars for \$525,000, and the PUC approved a 19 percent fare increase to cover the added costs. But the arrangement was short lived as a labor strike against the company in 1957 led to renewed calls to unify all the region s transit operations.¹⁹⁰

¹⁹⁰Bail (1984). The strike lasted almost two months and resulted in a 21 cents per hour wage increase and a reduction in working hours from 48 to 40 per week. Crump (1970a).

Los Angeles Metropolitan Transit Authority

Representatives from the San Fernando Valley continued to lobby for rail transit to be included as part of the Hollywood Freeway project, arguing that without rail service their area, which is separated from the rest of Los Angeles by the Santa Monica Mountains, would not share in the expected regional growth. Together with the Southern California Monorail and Transit Corporation, and the Monorail Engineering and Construction Corporation, they endorsed a plan for a monorail from the Valley through downtown to Long Beach along the Los Angeles River. Apparently, proponents hoped this futuristic technology would be more palatable than the old elevated trains.¹⁹¹

In 1951, despite opposition from the Los Angeles Chamber of Commerce and local private transit companies, these interests succeeded in obtaining state legislation creating the Los Angeles Metropolitan Transit Authority (LAMTA).¹⁹² That legislation authorized the LAMTA to study constructing a monorail along the Hollywood Freeway into the San Fernando Valley, but did not allocate any funds for the project, specifying that it should be paid for from bonds secured by system revenues.¹⁹³ Though the

¹⁹¹Sechler (1999).

¹⁹²Los Angeles Metropolitan Transit Authority Act of 1951. Stats. 1951, ch. 1668, p. 3804 (repealed 1967). See Adler (1987). The seven member governing board of the LAMTA consisted of five members who were appointed by the governor and two representatives of the City of Long Beach.

¹⁹³Hamer (1976).

legislature also failed to provide funds for any studies, from 1951 to 1956, the LAMTA received some financial support from the Los Angeles County Board of Supervisors for rail planning activities. A 1954 consultants report recommended a 45-mile long suspended railway through Hollywood, from Panorama City to downtown, at a projected cost of \$165 million.¹⁹⁴ But, the LAMTA eventually rejected the monorail plan and began to lay the groundwork for a comprehensive rapid rail system instead.

The LAMTA faced severe financial and institutional constraints that prevented it from functioning as a regional transportation agency.¹⁹⁵ But it did inaugurate a period of public acquisition of the troubled transit industry. In 1957, state legislation was passed reorganizing the LAMTA, permitting it to own and operate a transit system and to issue unsecured revenue bonds to finance the purchase of private carriers.¹⁹⁶ The legislation announced the policy of the State of California to develop a mass rapid transit system in Los Angeles County. By 1958, much of the city's private transportation system had been sold to the LAMTA. Using \$33 million in bond proceeds, the LAMTA purchased MCL (along with its subsidiary, Asbury Rapid Transit) and the Los Angeles Transit Lines

¹⁹⁴Sechler (1999). Equivalent to \$1,158 million in 2004 dollars.

¹⁹⁵Fulton (1997).

¹⁹⁶Los Angeles Metropolitan Transit Authority Act of 1957. The original act has limited the authority to operating suspended overhead monorail routes and supplemental feeder bus lines. The 1957 Act increased the authority's power to establish an integrated mass rapid transit system consisting of motor buses, trolleys, street railways, overhead, elevated, or subsurface railways. It could not, however, condemn existing transit operators without their consent. *See Los Angeles Metropolitan Transit Authority v. Public Utilities Commission*, 52 Cal.2d 655, 343 P.2d 913 (1959).

(LATL) which gave it a total of 822 buses and 73 interurban cars.¹⁹⁷ The LAMTA adopted the MCL green color scheme for its buses though the remaining PCC cars retained their original paint until being removed from service.

As of 1959, there were still four publicly-owned transit companies in addition to the LAMTA and 36 privately-owned transit companies in the county. Between 1961 and 1964 the LAMTA acquired five of the remaining transit lines: Foster Transportation Company (1960), Riverside City Lines (1961), Crosstown Suburban Bus Lines (1961), Glendale City Lines (1962), and the Wilmington Bus Company (1963) (see Figure 4.3).¹⁹⁸ None of the lines that the LAMTA acquired, however, were in minority areas.

The agency, controlled by the governor and operated exclusively out of farebox revenues, proved unable to finance a comprehensive rapid transit system. After the LAMTA was reorganized to become a transit operator, the Board became increasingly critical of its practice of discontinuing existing rail lines. Kenneth Hahn, now a County Supervisor, had been urging the President of the LAMTA to develop a grid bus system to ensure speedy, inexpensive access to any section of the county metropolitan area.¹⁹⁹

¹⁹⁷SCR TD, Transit Comparison Study, December 1985, P. II-7. The SCR TD inherited the company s debt and made the final payment in 1983.

¹⁹⁸The LAMTA and its successor, the SCR TD, spent \$1 million to acquire 15 additional private carriers by 1974. SCR TD, Transit Comparison Study, December 1985, Table II-1.

¹⁹⁹Letter to Ralph Merritt, President LAMTA from Supervisor Kenneth Hahn, January 5, 1959.

The LAMTA was reluctant to do so since the Transit Authority Act limited the LAMTA from interfering with existing transit systems routes.²⁰⁰ Hahn and other Supervisors demanded an accounting from LAMTA officials, threatening to call for a state investigation of the agency's operations.²⁰¹ As the Supervisors became increasingly frustrated with the declining service offered by the LAMTA and the remaining private operators, and with the lack of accountability of the LAMTA Board of Directors appointed by the governor, Supervisor Hahn even suggested legislation should be drawn up to make the LAMTA Board an elected body. Although this proposal never came to fruition, this remained a political sore spot, and local political interests did later succeed in capturing much greater control of the agency's eventual successor, the Southern California Rapid Transit District, as discussed below.

By the end of 1959, the roadbed and equipment along the Watts section of the downtown to Long Beach Red Car line operated along a right-of-way owned by the PE had deteriorated to the point that the LAMTA decided to abandon its local rail service and replace it with more modern bus service.²⁰² Supervisor Hahn opposed the move, and

²⁰⁰Letter from Ralph P. Merritt, Executive Director LAMTA to Supervisor Hahn, January 21, 1959.

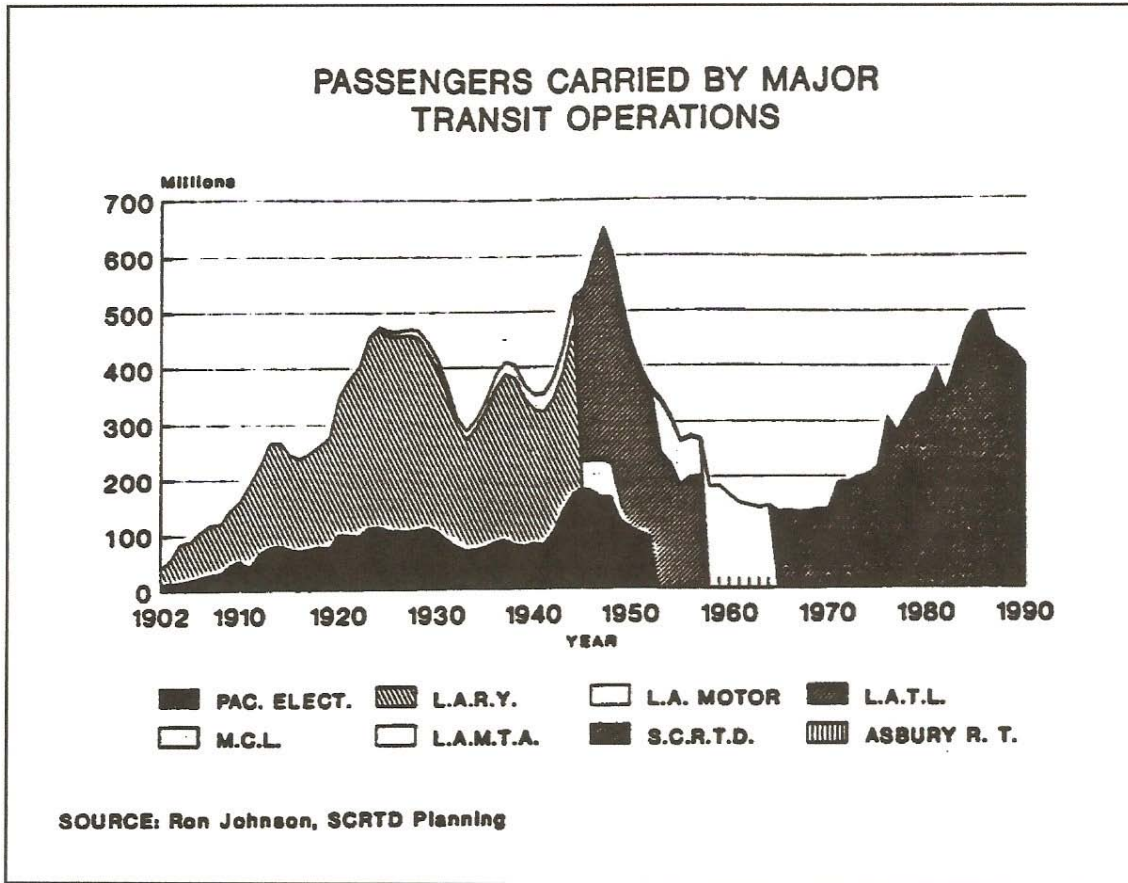
²⁰¹*Examiner*, Supervisors Ask MTA Report, April 1, 1959; *Mirror News*, Supervisors Want Full MTA Report, March 31, 1959; *Herald-Express*, Supervisors Order Probe of MTA, March 31, 1959.

²⁰²The Watts line had been operated by Metropolitan Coach Lines before the company was purchased by the LAMTA. In 1954, MCL's request to substitute buses for this line had been denied by the Los Angeles City Board of Public Utilities and Transportation and opposed by the County. Letter to LAMTA from Kenneth Hahn, October 9, 1959.

urged the LAMTA to instead expand its existing rail service between downtown and Long Beach. Nevertheless, the LAMTA proceeded with its plans, and Hahn joined residents of the Watts and Florence areas to take a symbolic last ride on October 29, 1959.²⁰³

²⁰³News from Kenneth Hahn, October 30, 1959. The Watts local was frequently through routed to Sierra Vista.

Figure 4.3. Bus Passengers Carried by Major Transit Operations



Source: SCRTD Planning Department.

The DMJM Plan

Despite its problems, the LAMTA did begin to move forward on developing a plan for regional rail. That plan, prepared by the firm of Daniel, Mann, Johnson & Mendenhall (DMJM), recommended an initial 75-mile system consisting of four lines extending out from the CBD to Covina, Santa Monica, Long Beach and Reseda (see Figure 4.4). Those four lines would be constructed as follows:

- (1) West elevated line along Wilshire to Beverly Hills (15 miles)
- (2) North line to San Fernando (22 miles)
- (3) East line to San Gabriel and El Monte (12 miles)
- (4) South line to Long Beach (22 miles).

Cost of the plan was projected at \$529 million.²⁰⁴ Perhaps due to the cost, the LAMTA chose to endorse a smaller starter line running 23 miles east-west from El Monte to Beverly Hills costing an estimated \$218 million,²⁰⁵ that could be largely funded out of fare receipts.²⁰⁶ The line to the Valley would branch north from the Wilshire line at Highland and proceed through the Cahuenga Pass, similar to the PE s 1906 proposal.

²⁰⁴Equivalent to \$3,434 million in 2004 dollars.

²⁰⁵Equivalent to \$1,415 million in 2004 dollars.

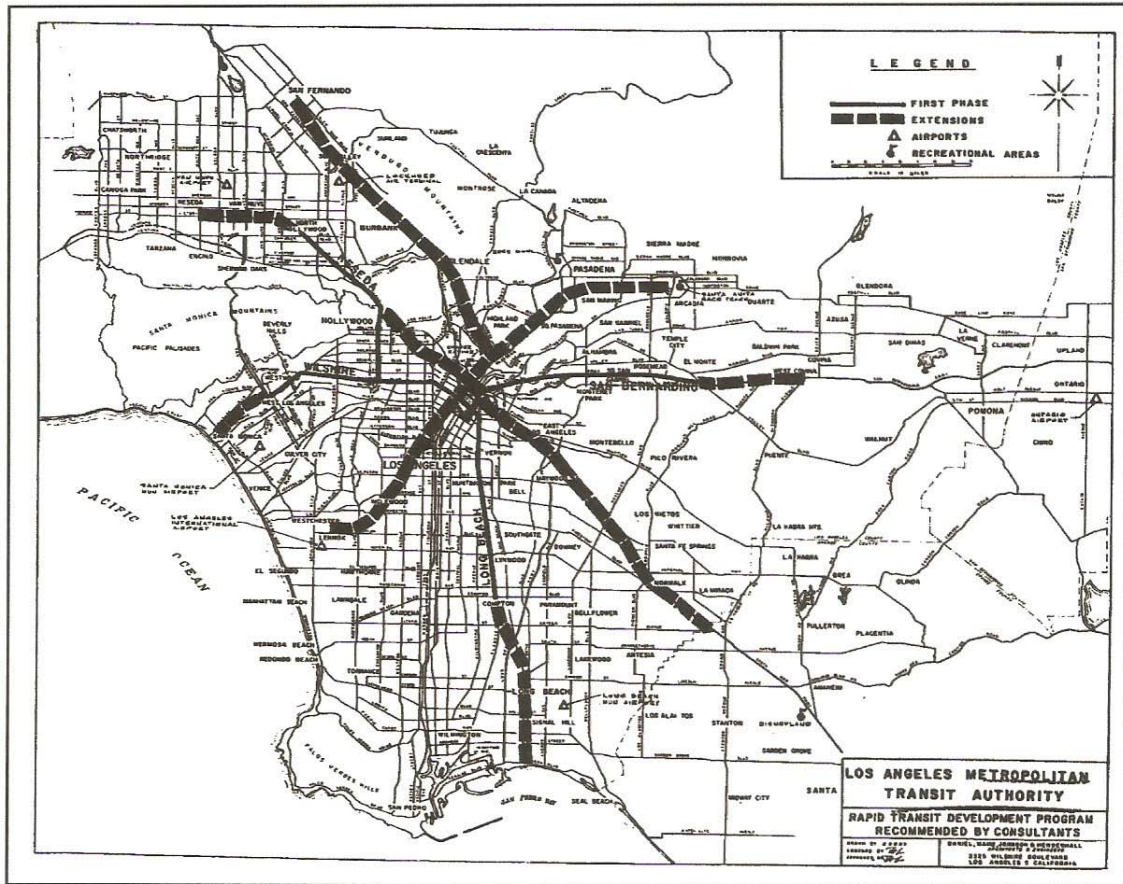
²⁰⁶Sechler (1999).

The Long Beach line would have run along the existing PE right-of-way from Central Avenue to North Long Beach then still being used by the LAMTA for its Los Angeles-Long Beach rail passenger line.²⁰⁷ But the federal government refused to provide any funding and the proposal was dropped, though it was later included as part of yet another plan, this for a \$619 million, 64 mile system covering all four corridors prepared for the agency by Kaiser Engineering.²⁰⁸

²⁰⁷Hamer (1976).

²⁰⁸Sechler (1999).

Figure 4.4. The Los Angeles Metropolitan Transit Authority Plan (1960)



Source: Los Angeles Metropolitan Transportation Authority, Mass Transit Development Program, 1960.

The End of an Era

Even as the remaining rail service continued to lose customers and street cars were being replaced by buses, the LAMTA had hoped to maintain at least some service to facilitate its regional rail plan. However, the LAMTA's request for a five year extension of its lease along the Long Beach Corridor was refused by the PE; the company explaining that it no longer wanted passenger lines interfering with its freight operations.²⁰⁹ The LAMTA also hoped to acquire some of the PE's freight lines for inclusion in a possible commuter rail system. In the end, though, the LAMTA was unable to purchase additional trackage and eventually abandoned the idea of providing passenger rail service altogether. This marked the end of the line for regional rail transit in Southern California for decades to come.

The Last Car

In 1961, the last passenger rail line still in operation from Los Angeles to Los Beach was terminated. So ended the interurban rail era in Southern California as it had

²⁰⁹Letter from D. R. Lewis, General Manager, Pacific Electric Railway Company to C. M. Gilliss, Executive Director, LAMTA, October 25 1960. The Cities of Long Beach and Compton filed a complaint on December 2, 1960 with the California Public Utilities Commission to force the PE to make its rail facilities available to the LAMTA.

begun. By 1963, the LAMTA abandoned its last five local streetcar lines, then serving many African American and Latino areas of Los Angeles, and completed the transition to an all diesel bus service.²¹⁰

The failure of the public to support transit improvements in this period has received various explanations. Bottles argues that the broad coalition of downtown and suburban business interests that had supported the Major Traffic Street Plan could not be enlisted in similar support for transit improvements. Downtown and suburban interests both backed road improvements since they would reduce downtown congestion and permit better access from the suburbs while at the same time facilitating crosstown traffic that benefitted suburban businesses. On the other hand, proposals to upgrade transit were widely viewed as mainly benefitting downtown business interests and strengthening the influence of downtown merchants over the regional economy. Measures to impose general taxes or raise property assessments to pay for transit improvements were perceived as giving windfalls to the corrupt railroads. Transit opponents argued that the general public should not be taxed to pay for a service that only a dwindling number of residents patronized. In the teens, nine of every ten downtown commuters arrived by streetcar. By the mid-1920s the numbers using automobiles and streetcars were roughly

²¹⁰Crump (1970a); Bail (1984). See also, LACTC, Land Use/Transportation Policy, Background Report, 1991.

equal.²¹¹ Plans to raise fares were equally unpopular given the public's perception of poor quality service provided by the traction companies. Although during this period the city successfully municipalized its water supply and harbor, there was little support for public acquisition of the floundering railways.²¹²

Wachs similarly argues that the highway plan succeeded where the transit plans failed for a number of reasons. The highway plans contained more discrete elements that could be implemented piecemeal through local assessments, while transit plans required larger capital investments that required wider public contributions. Transit plans were also perceived as mainly benefitting private transit companies, whereas the highway plans served the wider public interest.²¹³

Southern California Rapid Transit District

The year 1964 marked a turning point in the history of public transit in Los Angeles, with the demise of the Red and Yellow Cars and the completion of major portions of the now-famous freeway system the automobile appeared to triumph. But

²¹¹Bottles (1987).

²¹²Fogelson (1993).

²¹³Wachs (1984).

1964 would also signal a beginning of a revived interest in mass transit, both bus and rail, as the old problems of traffic congestion and new concerns over the environment, reflected in a growing smog problem, would force transportation planners and public officials to look for ways to reduce automobile travel. Critics of the LAMTA, while acknowledging its planning efforts, noted that it had limited authority to put them in motion since it did not have eminent domain powers and could not levy taxes, nor was it directly accountable to the electorate. As a result, as one business group put it, the authority was too weak to develop an integrated master transit system, but at the same time has too few political controls to be acceptable to the general public.²¹⁴

Criticism of the LAMTA had continued to mount throughout the early 1960s. Local interests saw a need for an alternative structure under local control. For example, the Southern California Research Council (SCRC),²¹⁵ a group composed of business executives and economists, urged the state legislature to create a special district controlled by local governments, with responsibility to coordinate master transportation planning and development in the region. In their study of local transportation issues, the Council concluded that the majority of future trips would depend on the automobile because 80 percent of all trips would both begin and end in widely dispersed locations.

²¹⁴Southern California Research Council, Report No. 8, *An Approach to an Orderly and Efficient Transportation System for the Southern California Metropolis*. 1960, p. 43.

²¹⁵The SCRC was jointly sponsored by Occidental College and Pomona College, with funding from the Committee for Economic Development and the Fund for Adult Education established by the Ford Foundation.

Of the remaining 20 percent, only five percent would have both origin and destination in concentrated places, such as office buildings and multi-unit apartment houses. The Council endorsed the state freeway plan, which promised to add about 1500 miles of freeways in and around Los Angeles, but concluded that planners would also need to consider innovative forms of mass transit, such as monorails, duorails, and bus expressways, as proposed in the LAMTA plan, to serve high density developments like those in the CBD-Wilshire Corridor.

The state legislature, recognizing the need to consolidate transit service, in 1964 voted to replace the LAMTA with a new agency, the Southern California Rapid Transit District (RTD).²¹⁶ The new RTD was given the responsibility to operate and improve the existing bus systems and in addition to plan, design, construct, and operate a regional rapid transit system. As discussed in the following chapter, though, this dual mandate would lead to significant conflicts over future transit policies. More politically accountable to local interests than the old LAMTA, the new RTD had an eleven-member board appointed by local governmental entities.²¹⁷ Five of the members were appointed by the County Board of Supervisors, two by the mayor of Los Angeles, and four by

²¹⁶Stats. 1964, 1st Exec Sess., c. 62, p. 201, § 1 (codified at California Public Utilities Code § 30001 et seq.) Section 30001 (b) states:

In view of the limited powers of the Los Angeles Metropolitan Transit Authority . . . it has become apparent that the authority is unable to solve the transit problems of the southern California area and provide the needed comprehensive mass rapid transit system.

²¹⁷RTD, Transit Comparison Study, December 1985, p. II-5.

representatives of other cities.²¹⁸ Also unlike the LAMTA, the RTD was given the power of eminent domain, to issue general obligation bonds, and to levy and collect taxes.²¹⁹

The rail era had ended. In place of the old Red and Yellow cars, Angelenos were now served by a number of individual municipal and private bus companies, each covering a different local area.²²⁰ Due to consolidation, the number of private transit companies had been reduced to just twenty-one.²²¹ The RTD operated about 1500 vehicles in a four-county area. It was also solely dependent on farebox revenues to pay for operating expenses, receiving no public subsidies. Still, the large number of local operators made long-distance bus travel difficult. While the RTD was the largest operator and could have possibly established a regional system, it was prohibited by state law from operating in any areas already served by another bus company. As a result, there was no single regional system capable of moving riders around the region on longer distance line-haul routes. Traveling any distance across the region usually meant at least one transfer to a different operator. In most cases, the various operators refused to honor each others fare media which made crosstown travel more difficult and expensive.

²¹⁸California Public Utilities Code § 30201 (West 1991). The Los Angeles County City Selection Committee appointed one representative from each of four existing or proposed transit corridors.

²¹⁹California Public Utilities Code, Chapter 5, Article 1, § 30503 (Eminent Domain), Chapter 6, Article 1, §§ 30800 et seq. (Property Taxes), Chapter 6, Article 2, §§ 30820 et seq. (Special Taxes).

²²⁰RTD, Transit Comparison Study, December 1985, p. II-7. In addition to the SCRTD, there were 12 municipal operators and twelve private operators.

²²¹Id., The LAMTA purchased four companies and the SCRTD bought eight between 1958 and 1985.

Conclusion

Together, the PE and the LARy, two complementary systems, made possible the development of widespread, low density city/suburbs throughout the region.²²² The streetcar, which was used twice as often in Los Angeles as other cities, facilitated the growth of a horizontal city of largely single family dwellings. As Los Angeles decentralized more quickly than other cities and the downtown never developed as fully as its eastern counterparts.²²³ As a result, the streetcar system was more overextended than in other cities. As the Los Angeles region spread out from the desert to the sea, the downtown never attained not attain the same level of political and economic dominance over the region as in some other places. This more fragmented spatial pattern, to use Foglesong's phrase, produced a sustained struggle between downtown and outlying interests that continues to have consequences to this day, as illustrated in Chapters Six and Seven. L.A. may not be altogether exceptional in this regard but the conflict between center and the periphery here has been especially pronounced.

Over time, the automobile has become linked with the phenomenal growth of the Southern California region, but it was the transit system that shaped the spatial structure of the Los Angeles region during its formative period, which the automobile so quickly

²²²Wachs (1996).

²²³Bottles (1987).

exploited. Nevertheless, the issue of public transit has remained closely entwined with the emergence of LA's popular automobile culture.²²⁴ The competition between rail transit and the automobile freeway system mirrored the larger conflict between competing visions of the ideal urban environment: the classic dense, downtown-centered, hub-and-spoke pattern of most eastern cities, and a new polycentric, lower density, sprawling, metropolis of suburban enclaves. Los Angeles of the third millennium is in truth neither of these completely, but rather its urban form is the product of decades of conflict over these opposing visions, conflicts that have frequently centered on issues of transportation. Those battles between the centrifugal and centripetal forces of regional growth set against a backdrop of massive population increases, unparalleled ethnic diversity, and growing racial and economic disparities not only frame the current debate over transit, but made the present crisis all but inevitable.

The social and economic restructuring that emerged out of the post war period created a new spatial reality in Los Angeles. In addition to the traditional conflicts between center and periphery, downtown and suburb, a series of new conflicts were emerging. Urban redevelopment was transforming the CBD into a high-rise jungle of white-collar offices, even as intense clusterings of manufacturing, commercial and residential uses were beginning to form outside of and in competition with the traditional central business districts. Los Angeles and the Southern California region was evolving a

²²⁴Foster (1971).

even more polycentric urban form. Even more important, perhaps, accompanying the dramatic physical and economic restructuring of the urban landscape, there was a significant social reorientation involving the forced concentration of low income residents and new immigrants, not in the emerging corporate CBD, but in the inner city areas southwest and east of the downtown area. While the old tensions between competing visions — centralization versus dispersion — would continue, new conflicts were beginning to emerge around issues of race, class and location.

The search for a regional transit solution to transportation and air quality problems up to the beginning of the 1960s centered, not surprisingly, on reconciling competing downtown and suburban interests. That dichotomy, generated by the particular historical geography of Los Angeles described above, continued to frustrate efforts to restore rail transit to the region over the next few decades. But those were not the only issues that would bedevil the transportation question. The social landscape of Los Angeles, was changing, not least due to the massive influx of African Americans during and following World War II, confined by legal restrictions and social prejudice to crowded and rapidly deteriorating slum areas. The emergence of a largely poor, minority, and highly concentrated transit dependent population contrasting with the growing number of middle and upper middle class suburban communities and edge cities far from downtown created a new spatial and political pattern that underlay the traditional central city-suburban geography.

As rail proponents continued to press for a regional rail systems they would also have to deal with emerging social and geographic conflicts. They would be forced to confront the fact that for the growing population of poor and minority residents living south and east of the downtown, many of whom depended heavily on public transit, the complex ad hoc transit system was another burden to bear. Within this new, highly polarized urban spatial structure, lay the seeds of a new social and political consciousness organized around the changing demographics of transit ridership. This time, attempts to revive the moribund rail system, not only resurrected traditional spatial conflicts, but now also exposed the region s growing social and racial divide.

There is a tendency in the current literature of Los Angeles to treat the issue of transportation as one of technological and ecological appropriateness. On the one side are those who argue that the highly concentrated urban form, as represented by dense, vertical, downtown areas, was merely a passing historical anachronism and that the natural form of human settlement is dispersed and low density. In this view, Los Angeles, built after the rail car freed businesses and residences from the shackles of proximity to waterways and one another, was free to express itself as a new city with a new urban form. They suggest that while the streetcars helped the city to realize its true potential, the technology of rail transit was simply inappropriate to the proper nature of urban settlement patterns. The fact that other urban areas are becoming increasingly indistinguishable from Los Angeles is offered as proof of this fact. The rather

teleological lesson seems to be that the automobile and the forces of dispersal won out, as some would suggest, because it was more in keeping with the natural evolution of human society. On the other side are those who argue that had politicians and planners only possessed the fortitude to support public transit when they had the chance, society could have avoided all the problems associated with over reliance on the automobile and its tendency to promote wasteful sprawl and urban disintegration, all most characteristically on display in the City of Angels. Human error and the failure to recognize rationale and correct technological solutions seems to be the lesson here. What seems to be missing, and something which the remainder of this dissertation attempts to rectify, is that neither side is either wholly right or wholly wrong, and that the decisions which were made were neither completely rationale nor irrational, but merely represent parts of an ongoing social and political power struggle over the structure of urban space. In the particular context examined here, the issue of regional rail in Southern California, that continuing struggle was not so much over finding the correct transportation modes to solve the region's problems as it was over the question of social and economic transformation, couched in competing visions of the urban future. It is through this constant process by which the transit question in Los Angeles generally, and the emerging plans to revive rail transit in particular, became a civil rights issue, the story to which we turn next.

CHAPTER FIVE: POVERTY, TRANSIT, AND CIVIL RIGHTS I, 1965-1975

The year 1964 marked the beginning of a period of social upheaval and collective political reassessment. The Civil Rights movement would enter a new phase, emboldened by passage of the Civil Rights Act during the Johnson presidency but wrenched by the killings of President Kennedy, Dr. King, Robert Kennedy, and Malcolm X, and the continuing national turmoil over the Vietnam War. In Los Angeles, even as a unified rail vision was coalescing among politicians and transportation professionals, another alternative vision was emerging out of the social and political struggles among the poor and people of color that would disrupt that fragile new coalition that was beginning to form. This new vision would question the basic premise, expressed in the motto of the regional transportation agency, *Leading the Way to Greater Mobility*, that the future of public transit in Southern California lay with high-speed rail connections between all parts of the immense region, designed to attract automobile riders out of their vehicles. This alternative vision would grow from the recognition that, far more than in any previous era, Southland transit riders were poor and transit-dependant, while most long-distance commuters had far more options and little incentive to use transit. While

the story of transit in Los Angeles up to 1964 had been primarily one of conflict between downtown and suburban business interests, this next phase revolved increasingly around the up to then largely ignored reality of the region's growing poor, mostly minority, inner city contrasting with its highly dispersed, wealthier, and predominately white outlying areas and suburbs. An event in the summer of 1964 would shatter that naivety.

The Watts Riots

Los Angeles, like other major urban areas in the U.S. in the mid sixties, was highly racially and ethnically segregated. African American residents lived mostly south of the downtown in the communities of Florence and Watts, while Latinos resided principally in East Los Angeles. Both areas had high concentrations of poverty. One third of households in South Central and East Los Angeles lacked an automobile in 1965 and approximately one fourth earned below the federal poverty level. The South Central area's residents were highly transit dependent. A total of 29.3 percent of households were without automobiles, compared to 19.2 percent in the rest of the city. The proportion of work trips made on public transit was 17.6 percent versus only 9.8 citywide. Studies conducted by the Los Angeles City Planning Department concluded that the area was at a competitive disadvantage relative to more affluent areas due to lower car ownership, which resulted in poorer job access. In addition, city residents had fewer

shopping opportunities, and those shopping centers that were reachable by bus frequently required transfers and lengthy travel times.¹

Here as in many cities throughout the nation, frustration over longstanding economic and social injustices, led many inner city minority residents to turn to various forms of social protest. Although Los Angeles had relatively little prior history of racial violence,² smoldering tensions existed just beneath the surface and outside the consciousness of most white residents and politicians. For six days in the summer of 1965, a small fraction of the residents of the African American community of Watts looted stores, burned cars, and resisted all police efforts to quell the disturbance. Thirty-four persons died, scores were injured, and almost 4,000 arrests were made.³

In 1965, California Governor Edmund G. Brown appointed a special commission to investigate the immediate and underlying causes of the so-called Watts Riots.⁴ Known popularly as the McCone Commission after its chairman, John A. McCone, the commission concluded in the preface to its report that costly and inadequate bus service

¹Los Angeles Department of City Planning, Background Report South Central Los Angeles District, City Plan Case 23679, August 1975.

²Notable exceptions were the Chinese Massacre and the so-called Zoot Suit attacks described in Chapter Four.

³Governor's Commission on the Los Angeles Riots, Violence in the City—An End or A Beginning, December 2, 1965, hereinafter McCone Commission Report, p. 4

⁴Charge of Governor Edmund G. Brown to the Commission, August 24, 1965.

in this part of Los Angeles had contributed to a sense of isolation and frustration on the part of many residents.⁵ In the main body of the report, the Commission found that the lack of appropriate bus service restricted job opportunities and limited residents to shopping in nearby stores that many residents believed exploited their mostly poor customers.

The Commission noted that the Watts area was served by three public transit entities and one private bus company, the Blue and White Bus Company of Watts, but that each operated in exclusive franchise territories, and none honored transfers between systems.⁶ As a result, residents might have to ride several lines and pay separate fares in order to reach their outlying destinations. These local bus systems had historically responded to increasing costs by raising fares and cutting service, resulting in bus fares that in the words of the Commission, were prohibitively expensive for residents of the area. The Commission report also pointed to the lack of adequate east-west and north-south crosstown service, and concluded that:

⁵McCone Commission Report, p. 4

⁶South Central Los Angeles at this time was served by the RTD and the privately-owned Blue and White Bus Company of Watts, however, only the RTD provided service outside the area. The RTD operated ten local lines, nine crosstown lines and two suburban routes; fares to downtown ranged from \$0.46 to \$0.58. Transfers were permitted between local and crosstown lines for a nickel while transfers between suburban and local or crosstown lines were only permitted in the downtown inner zone. The Blue and White Bus Company operated five lines and charged \$0.20 but did not honor RTD transfers. The Gardena Municipal Bus Lines and Torrance Municipal Bus Lines also operated through the South Central area to downtown but did not provide local service.

Our investigation has brought into clear focus the fact that the inadequate and costly public transportation currently existing throughout the Los Angeles area seriously restricts the residents of disadvantaged areas, such as South Central Los Angeles. This lack of adequate transportation handicaps them in seeking and holding jobs, attending schools, shopping, and in fulfilling other needs. It has had a major influence in creating a sense of isolation, with its resultant frustrations, among the residents of south central Los Angeles, particularly the Watts area.⁷

The Commission acknowledged the then current debate over building a public mass transit system, but drew a distinction between the desire for mass rapid transit, and the needs for public bus transportation which, they insisted, was particularly essential to the poor and disadvantaged who are unable to own and operate private automobiles.⁸ The Commission urged that the RTD receive public subsidies in order to improve service throughout the metropolitan area, and that it begin acquiring existing small transit companies, the proliferation of which the Commission felt increased the overall cost of transit in Los Angeles. The Commission also called for extending transfer privileges between bus lines as well as establishing greater east-west crosstown service, particularly in the Watts area.

⁷McCone Commission Report.

⁸McCone Commission Report.

Subsequent studies confirmed that bus service in South Central and East Los Angeles was expensive and inconvenient for shopping, in part due to the lack of transfer privileges. As a result local residents typically shopped at local mom-and-pop stores within walking distance and suffered higher prices, inferior merchandise, and unattractive store conditions. Or, they had to arrange car trips to shopping centers with friends or relatives.⁹ Access to employment opportunities using public transit was also constrained. Adjacent employment areas were hard to reach without making numerous transfers. Traveling the six miles from Watts to the industrial area at Washington Boulevard and Eastern Avenue took three different buses and 59 minutes. From East Los Angeles, a distance of 2¾ miles, it took four buses and a total of 52 minutes.¹⁰

Researchers found that while bus companies provided reasonable service to employment locations in the northern half of the city, nearly all of the southern portion of the city was inaccessible to bus riders from these areas. Much of the Los Angeles area was beyond a 90 minute travel time even with multiple transfers. From Watts, only 22 percent of jobs in Los Angeles County could be reached within 60 minutes by bus. By contrast, almost 15 times as many jobs could be reached by automobile in only 30 minutes. For East Los Angeles, 31 percent of jobs within the county were found to be

⁹Rosenbloom, (1969).

¹⁰South Central and East Los Angeles Transportation Employment Project, Progress Report No. 1, October 1966, pp. 10-11.

reachable within 60 minutes by bus. For both areas, a total of 55 percent of jobs and an equivalent number of employers were outside of a 90 minute travel zone using public transit. Transit users had access to only about 1/3 the number of jobs as motorists within an hour.¹¹

Governor Edmund Brown responded to the McCone Commission report by creating the Transportation Employment Project (TEP) using a \$2.7 million Section 6 grant available to the state under the federal Urban Mass Transit Act of 1964. This demonstration project, funded through the Department of Transportation (DOT) and Department of Housing and Urban Development (HUD), was designed to improve transit in South Central and East Los Angeles. The TEP, administered by the state Transportation Agency, was designed to study the relationship between transportation and job prospects for low income groups, principally in the Watts area. The project consisted of three phases, including a 24-month test to determine whether better transit could improve employment opportunities.¹²

As part of the TEP, an experimental one-year project to establish a door-to-door demand-response service in South Central similar to taxicabs was operated by the Watts

¹¹Simpson & Curtin, Inc., and General Research Corporation, State of California Transportation-Employment Project Evaluation of Present Bus Operations and Summary of Transit Needs, State of California Transportation-Employment Project, 1969.

¹²Letter to Charles Harr, Assistant Secretary for Urban Development, HUD from Robert B. Bradford, Administrator of Transportation, April 1, 1966.

Labor Community Action Committee (WLCAC) and a smaller project in East Los Angeles run by the East Los Angeles Community Improvement Association (ELACIA).¹³ Even in these highly transit dependent areas, many resident relied on automobiles for shopping and work trips. The purpose of the plan was to serve community needs poorly met by existing transit by providing access to shopping, medical care, community service centers, and other community facilities as well as home-to-work trips using a system of smaller vehicles that could be flexibly routed and scheduled. As explained by Housing Secretary Romney and Transportation Secretary Volpe, the general objective of the TEP was to fit a transportation system to the needs of a community and thus increase the mobility of the disadvantaged.¹⁴ Another significant achievement of the TEP was initiation of a crosstown bus line along Century Boulevard.¹⁵ While the line provided a more direct route to work and shopping for many, 58 percent of fares collected went to pay other local bus companies that stood to lose passengers from the new service.¹⁶

Supervisor Hahn, whose district included Watts, was critical of the TEP proposal,

¹³Simpson & Curtin, Inc., and General Research Corporation, Demonstration Plan for Multi-Service (MUST) Systems in East Los Angeles and South-Central Los Angeles, IMR-1200, Technical Memorandum No. 2, October 1969.

¹⁴*Passenger Transport*, June 6, 1969, p.5.

¹⁵The line initially ran from LAX easterly to one block west of Alameda Street. It was later extended to South Gate. The line started with a weekday average of 883 passengers and weekly average of 4,222. Within a year it had a weekday average of 2,626 passengers and a weekly average of 15,390.

¹⁶These were the Inglewood City Lines, the Atkinson Transportation Company and the South Los Angeles Transportation Company. Payments were also made to the RTD to cover loses from eliminating zone fares along the route.

favoring a complete overhaul of the bus system. Hahn proposed establishing north-south and east-west bus grids on all major roads in the area,¹⁷ and simplifying fares with a single fare zone within 30 miles of downtown. He also endorsed creating a commuter transit system using existing railroad rights-of-way financed with gas tax funds.¹⁸

A subsequent analysis of the effects of the TEP found little had changed. Noting that rising automobile usage rates had encouraged many new businesses to locate far outside the central city to take advantage of greater space and lower land values, the report nonetheless concluded that many residents still had to depend on public transit to access employment:

In generalizing on the mobility of the work force, it is easy to overlook the fact that there are very substantial numbers of people who do not own, drive or otherwise have available an automobile, and who must depend on public transportation in order to move about. Large numbers of these people are concentrated in the South Central and East Los Angeles, low-

¹⁷Statement by Supervisor Hahn, May 16, 1966. Areas to the west were served by a grid system of bus lines operated by the RTD but in the project area and the major commercial and industrial areas to the east and south this was not the case. These areas were served by remnants of the old Pacific Electric Railway interurban system which did not have transfer agreement with the RTD.

¹⁸Kenneth Hahn, A Practical Approach to a Rapid Transit for Los Angeles County, January 10, 1966. In 1968 the state legislature granted publically owned transit systems a reduction of 6 cents per gallon on diesel fuel taxes.

income areas. . . .¹⁹

The Report also addressed the problems of those residents living within the Regional Core but outside the immediate downtown area:

As in most other large urban areas, the public transportation system has been oriented to the Los Angeles central business district, and during the years of decentralization there has been little opportunity for public transit to adjust its operations to meet the changing conditions. To put it simply, for persons living in or near the central city and working in locations other than the downtown area, the availability of an automobile is almost a necessity. Public transportation services to and from the outlying industrial and commercial areas are generally poor or nonexistent. If jobs are to be found for persons in the project area who are not able to travel by private automobile, either the existing public transportation system must be vastly expanded in terms of new bus routes to serve the entire metropolitan area or other methods of providing the necessary transportation must be found.²⁰

¹⁹Transportation Employment Project: A Research Project of the State of California to Determine and Test the Relationship Between a Public Transportation System and Other Opportunities of Low Income Groups, Progress Report No. 3, hereinafter Transportation Employment Project, p. 19.

²⁰Transportation Employment Project, p. 19.

A separate 1967 report on efforts to implement the Commission's report, while noting progress on some fronts, such as the Century Boulevard line, nevertheless concluded that many recommendations had not been followed: It still remains expensive and excessively time consuming to travel from poverty areas to adjacent employment areas, even though the distances involved are not great.²¹ The investigators added that the RTD had not yet purchased any bus lines and that transfer privileges had not been extended.

Over the next several years, some progress was made on reforming public transit, particularly in consolidating the various competing bus systems. The RTD began to purchase some smaller bus companies operating in the Los Angeles region, and executed transfer agreements with various operators in the region. In August 1967, the RTD purchased the Pasadena City Lines and the Inglewood City Lines, the same year it increased fares from \$0.25 to \$0.30. In 1971, it acquired Eastern Cities Transit and in 1972 purchased the Blue and White Bus Company of Watts.²² Between 1967 and 1974

²¹Governor's Commission on the Los Angeles Riots: Staff Report of Actions Taken to Implement the Recommendations in the Commission's Report, Status Report II, April; 18, 1967, p. 11.

²²By 1968, the Blue and White Bus Company had been purchased by the National Growth and Reconstruction Organization (NEGRO), a group headed by New York neurosurgeon, Dr. Thomas W. Matthew. Dr. Matthew, an advocate of black owned businesses, was freed from prison in 1970 by President Nixon after pleading guilty to income tax evasion. He explained that he had stopped paying taxes due to his opposition to public welfare. *Los Angeles Times*, People Will Direct Watts Area Bus Line, September 2, 1970. The Blue and White Company discontinued service in 1971 due to litigation and other operating problems. Statement by Supervisor Kenneth Hahn, August 5, 1971.

the RTD purchased or replaced ten local bus companies.²³ Following this period of bus system consolidation, the RTD became the main transit provider to much of Los Angeles County. Institutionally, however, the RTD management remained segregated, a fact recognized by the local NAACP which urged that an African American be appointed to the RTD Board of Directors and that the agency be integrated from the top down as well as from the bottom up.²⁴

The Search for a Mass Transit Solution

Even as slow progress was being made to improve bus service, the RTD was being pulled in new directions. By law, the RTD had been directed to build and operate a rapid transit system and was given the authority to impose a transactions and use tax (commonly called a sales tax) for transit purposes, if approved by the voters.²⁵ The agency at least initially saw this responsibility as complementary to its efforts to serve an increasingly transit dependent population. As we saw in the previous chapter, rail

²³RTD, Transit Comparison Study, December 1985, p. II-10. In addition to those mentioned, these included La Rambla Bus Lines (1971), Highland Transit (1971), Pomona Valley Municipal Transit System (1972), San Pedro Transit Lines (1973), Ontario-Upland Bus Line (1973), and the Greyhound Santa Monica-Long Beach Line (1974).

²⁴Letter to Frank Bonelli, Chairman, Los Angeles County Board of Supervisors from E.D. Warren, President, Watts Branch NAACP, April 27, 1968.

²⁵California Public Utilities Code § 30825.

development had historically been a significant component of regional planning strategies to unite far flung activity centers to the downtown core. Beginning in the mid-1960s, it now took on added impetus as a means to ease traffic congestion and address environmental concerns.²⁶ Local politicians, civic leaders, and business interests backed a number of schemes for a new radial rail rapid transit system, proposals that would ultimately make it harder for the agency to address the transportation needs of transit dependents primarily located outside the downtown area but within the Regional Core.

As the regional transit planning agency, the newly-formed RTD sponsored bond measures in 1968 and again in 1974 to finance rail construction, only to be turned down by wary voters.²⁷ By 1980, however, a number of factors coalesced to overcome local resistance to rail construction. Spurred by the availability of massive amounts of federal money for new transit projects, regional politicians and planners finally forged a successful coalition to bring rail back to Los Angeles.

²⁶ Los Angeles has long had one of the worst air quality problems in the nation. This has put enormous pressure on transportation planners to reduce auto emissions. Many people saw, and continue to see, mass transit as a solution to the problem of automobile-generated pollution.

²⁷Fulton (1997), p. 138.

Initial Failures

The RTD commissioned a study in 1965 by the firm of Daniel, Mann, Johnson and Mendenhall (DMJM) to analyze different corridors for rail development.²⁸ Though the DMJM report recognized the fact that population and employment was growing much faster in the outlying areas of the county than in the downtown core, it nevertheless asserted that the key to a healthy regional economy lay in a dense, economically strong, CBD. The key to making that happen would be a transportation network that could supply the downtown with suburban workers. High-capacity rapid rail transit was touted as both cause and effect – massive employment growth was expected to occur but could only be realized by an efficient transit system. The alternative would be massive and unacceptable highway construction.²⁹ A followup study was prepared by Coverdale and Curtin of expected transit patronage based on the corridors defined in the 1960 LAMTA proposal, also prepared by DMJM, and a 19-mile route southwest from downtown to Los Angeles International Airport (LAX). Using somewhat questionable population projections from the Los Angeles Regional Transportation Study (LARTS), the study projected that 73 percent of peak period bus patrons would be diverted to the rail system along with 19 percent of automobile drivers. In all 22 percent of peak period users would

²⁸Daniel, Mann, Johnson & Mendenhall, *Planning and Economic Considerations for Rapid Transit in the Los Angeles Metropolitan Region*. Los Angeles, Southern California Rapid Transit District. 1965.

²⁹Hamer (1976).

be induced to take transit with the proposed system.³⁰ As previously noted, such levels are sustained only in a few highly concentrated urban areas such as Manhattan. Nevertheless, the need to generate high ridership projections was seen as crucial to winning backing for expensive rail projects, and as noted in later chapters, became increasingly important to regional planners in Los Angeles as a way to meet federal air quality standards. Based on these figures the RTD was prepared to go forward with a rail plan, as opposed to considering other options but as buses, or bus rapid transit.

Based on their consultants' reports the LAMTA prepared a plan in 1968 outlining an 89-mile rail system running from downtown to the San Fernando and San Gabriel Valleys, along Wilshire Boulevard to Beverly Hills and West Los Angeles, and to Long Beach and LAX. The Wilshire Line, at roughly 15 miles in length, was the shortest of five proposed corridors, and the only one entirely underground. It ran from Union Station south under Broadway and then east beneath Wilshire Boulevard to Century City, terminating at Barrington Avenue. It had seventeen proposed stations and was to have been constructed between 1971 and 1976, at a cost of about \$40 million per mile. The estimated cost of the entire planned system was \$2.5 billion,³¹ to be financed by Limited Tax Bonds paid for from a proposed ½ cent increase in the countywide sales tax. The tax proposal was supported by downtown boosters and those with financial interests around

³⁰Hamer (1976). Hamer provides a trenchant critique of the methodology used in the LARTS estimates.

³¹Equivalent to \$13.6 billion in 2004 dollars.

the proposed stations. Proponents, headed by a group called *Citizens for Rapid Transit*, argued that the system was necessary for the future of the downtown. In a familiar retort, opponents claimed this was just a scheme to prop up a declining CBD. The *Los Angeles Times* opposed the measure on the grounds it was too expensive and would serve too few residents. The proposition failed but still received 45 percent of the vote.³² Undaunted, the RTD pressed ahead with its rail planning efforts, but meanwhile there were other calls to improve local bus service for workers and others traveling outside the downtown core.

In response to the voting public's failure to support rail transit, Supervisor Hahn proposed an alternative plan to double the size of the bus fleet from 1500 to 3000, establish a grid system on major roadways, such as Western, Manchester, and Vermont Avenues, and Century Boulevard, create a single 25-cent fare zone within a 35-mile radius of the downtown, and reduce the cost of a monthly bus pass from \$12 to \$5. He also suggested that major employers purchase bus passes for employees rather than providing free or subsidized parking.³³

In 1970, state voters rejected a proposal to use gasoline taxes for rapid transit, however, the RTD received authority from the legislature to levy a temporary one-half

³²Los Angeles Times, *Wilshire Subway, As Seen From All Angles*, September 22, 1968, Section L, p. 1.

³³Statement by Supervisor Kenneth Hahn, November 21, 1969. Supervisor Hahn decried the fact that the RTD spent only \$1 million of the \$27.7 million to improve and expand service. News from the Office of Los Angeles Supervisor Kenneth Hahn, February 26, 1971.

cent sales tax for six months to address shortfalls in revenue, using \$6 million of the \$27.7 million received to purchase 300 new buses. A portion of the tax revenues were also used to subsidize fares. The agency also began work on a \$51 million program financed in part by state and federal highway funds to construct a high-speed busway in the median of the San Bernardino Freeway from El Monte to Downtown. And, the RTD established a new line through the Watts-Willowbrook area to LAX and improved headway and transfer privileges on lines serving Watts, Compton and Wilmington, in addition to other projects serving East Los Angeles and rest of the county.³⁴

By the following year, the RTD could boast that it had increased route miles from 1800 to more than 2600 miles by acquiring existing service providers, adding new lines and extending existing lines. The agency was aware, however, that additional financial relief would be necessary to avoid future fare increases that would particularly affect the one in six county households that lacked an automobile.³⁵ Supervisor Hahn renewed his call for 25 cent fares and a grid bus system. The District, however, objected that the \$32 million cost of the program would leave it without funds needed for bus maintenance or

³⁴Gilstrap, Jack R., General Manager RTD, Report to the Los Angeles County Board of Supervisors, February 25, 1971.

³⁵Gilstrap, Jack R., General Manager RTD, Report to the Los Angeles County Board of Supervisors, February 25, 1971.

to develop a rail program.³⁶

The Mass Rapid Transit Proposal

In response to the passage of the state Transportation Development Act (TDA)³⁷ in 1971, making additional sales tax funds available for transportation improvements, the RTD began studying new ways to improve public transportation in Los Angeles. Unfortunately, relations between the RTD and the County were souring as various county officials pushed their own pet projects, only to be rebuffed by the agency's management, which was accused of dragging its feet on rail development in favor of expanding bus service. The Supervisors held very divergent views about how to reform transit service. Supervisor Baxter Ward, a former television commentator, proposed that the county acquire or condemn rights-of-way from the Southern Pacific to use for a regional rapid transit network. He complained that the RTD was ignoring rail in order to force commuters to use busways. Supervisor Hahn urged a county takeover of the RTD, but Supervisor Pete Schabarum, also concerned over the RTD's failure to develop a regional transportation plan, countered with a proposal to restructure the agency as a regional

³⁶Letter from Jack R. Gilstrap, General Manager RTD to Norman Topping, President Board of Directors, RTD, December 7, 1971.

³⁷Senate Bill 325.

transportation authority responsible for highway and transit planning and operations.³⁸

Schabarum accused the RTD of becoming so enamored of long-range subway plans that it was ignoring needed short term measures to reduce pollution and avoid a possible federal gasoline rationing order.³⁹

Despite calls from local politicians to push rail development, in February of 1973, the RTD proposed a \$5 million program for new and expanded bus lines. The program would add 1,700 miles of service and also reduce the existing 230 different fare zones by two-thirds. Passage of the TDA had averted fare increases and service cuts but there were no additional funds available to build a rapid transit system, without increasing fares or eliminating the bus service improvement program.⁴⁰ While federal revenue sharing funds were available for transit development, federal law prohibited their use for ongoing operating subsidies.⁴¹ Funding to support rail construction and operation, if it were to proceed, would have to come from raising local tax revenues.

By the 1970s the Los Angeles Community Redevelopment Agency (CRA), formed as an urban renewal agency in 1949, was busily at work reconstructing the now

³⁸*Herald Examiner*, County Eyes S.P. For Rapid Transit, February, 20, 1973; *Los Angeles Times*, Takeover of RTD by Supervisors Proposed, February 16, 1973.

³⁹*Herald Examiner*, County Takeover of RTD?, January 24, 1973.

⁴⁰RTD, Press Release, February 5, 1973.

⁴¹Grey and Hoel (1992).

properly denuded Bunker Hill with a mass complex of high rise corporate office buildings designed to make the CBD a financial capital of the emerging Pacific Rim.⁴² In 1972, the Committee for Central City Planning, a group of businessmen and professionals committed to downtown urban renewal, issued a report designed to dovetail with the CRA s planning efforts. Prepared by various consultants including DMJM, the report, entitled *Central City Los Angeles 1972/1990*, predicted a 73 percent growth in employment in, and daily trips to, the CBD over the study period. But again, both accommodating and assuring that growth depended on completion of a regional rail system radiating from the western edge of downtown close to Bunker Hill.⁴³ The report concluded:

Only through the implementation of a Regional, grade separated express Transit system will the travel demands generated by Downtown s potential development be accommodated.⁴⁴

An RTD study produced in July 1973 by Kaiser Engineers and many of the consultants responsible for the *Central City* study, evaluated 15 potential corridors for a possible mass rapid transit (MRT) system, with the intention to present the proposals to

⁴²Soja (1996).

⁴³Hamer (1976).

⁴⁴Los Angeles, Committee for Central City Planning, Inc., *Central City Los Angeles 1972/1990*. April, 1972, quoted in Marcuse (1975), p. 15.

the voters in 1974.⁴⁵ The 1st Priority system (shown as shaded lines in Figure 5.1), consisted of the San Fernando Valley West Corridor, the Wilshire Corridor, the Southwest-Los Angeles International Airport (LAX) Corridor, the South Central-Long Beach Corridor, the Santa Ana Corridor, the San Gabriel Valley Corridor, and the El Segundo-Norwalk and North Long Beach Corridor busways.⁴⁶ This system was a predominately radial configuration, similar to earlier transit proposals, and with the exception of the portions of the El Segundo-Norwalk Corridor all closely match the old PE routes. The 2nd Priority system (unshaded lines) also covered areas that were part of the interurban system but also contained additional cross-town connections, such as along Sepulveda Boulevard, that never were.

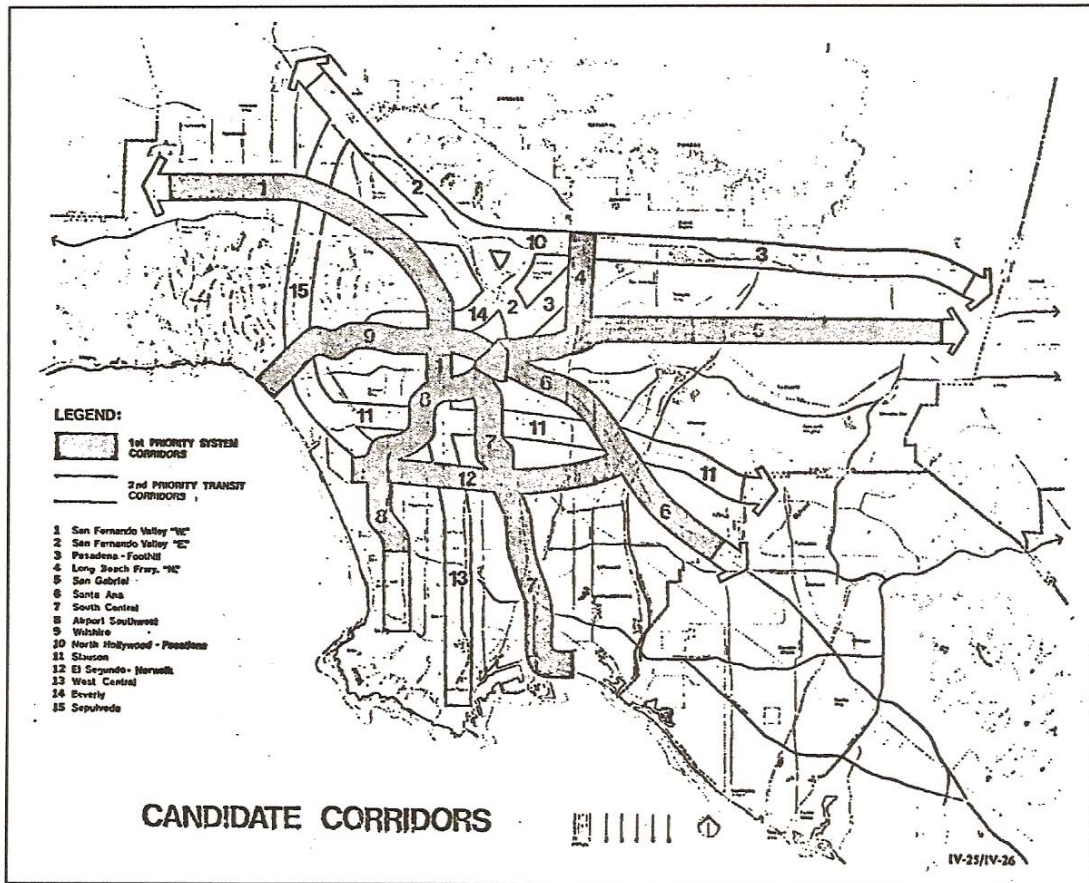
Challenging the popular notion of Los Angeles as a place of unfocused sprawl, and clearly reflecting the City Planning Department's new Centers Concept, the report concluded that despite the diversity of travel destinations in the Los Angeles metropolitan area, in the main development and travel was directed to the Regional Core, which included the CBD and the Wilshire Corridor from downtown westward through Beverly

⁴⁵When the state proposed repealing a recent one cent increase in the state general sales tax, Supervisor Hahn suggested that the Board of Supervisors be given authority to continue to levy the tax to fund public transportation. The RTD suggested that the funds, approximately \$90 million, be used as a one-third match to obtain federal monies to begin construction on a downtown subway system. Since the \$270 million would only fund a subway from Union Station to Exposition Park, the RTD proposed holding the money in trust pending a favorable vote on the regional rapid transit system. Alternatively, the funds could be used to finance a 25 cent flat fare advocated by Supervisor Hahn. Letter to Kenneth Hahn from Jack R. Gilstrap, July 9, 1973.

⁴⁶The last two corridors were included to take advantage of planned freeway construction but were designed as busways because of the low ridership estimates.

Hills. The highly concentrated nature of these activity centers, with no nearby freeways, it argued, prevented the population in these areas from being adequately served by buses. Thus, a rail system would provide local benefits by reducing congestion. Based on their analysis the consultants recommended a 240-mile system be built.

Figure 5.1. The Los Angeles Corridor Network (1973)



Source: SCRTD, Mass Rapid Transit Study, 1973.

Based on the Kaiser Engineers candidate corridor study, the RTD proposed building a Mass Rapid Transit (MRT) system consisting of an initial 116 miles of rail transit in six designated corridors and 24 miles of exclusive busways within two

additional corridors (El Segundo-Norwalk and the North Long Beach Freeway⁴⁷) (see Figure 5.2). This was known as the Phase II system, and again closely follows the radial PE network, except for the Pasadena-Glendale-North Hollywood and El Segundo-Long Beach cutoffs. Annual operating costs would range from \$350 million in 1981 to \$590 million in 1990. The recommended plan called for a comprehensive transportation system, using a mass rapid transit mode for trunk-line service, augmented by additional bus service and feeder/distribution systems.⁴⁸ The starter system was estimated to cost \$3.4 billion (1973 dollars)⁴⁹ and carry over one million rail passengers and an additional 800,000 bus riders by 1990. The full system could eventually be expanded to provide regional service to Orange, Ventura, San Bernardino, and Riverside counties. The RTD engineers promised that:

Fifty to seventy percent of the population would be five to ten minutes away from the system trunk-lines. Waiting times would be five minutes or less during peak periods and travel speeds as high as 80 mph could be achieved in a safe and comfortable manner under practical operating conditions. Higher speed might be achieved depending on decisions

⁴⁷The I-105 and the I-710.

⁴⁸Kaiser Engineers, Study of Alternative Transit Corridors and Systems, Technical Report, Part V, August 1973 [hereinafter Kaiser Engineers Study]. The proposal was declared to be consistent with the emerging mandate to conserve energy and land.

⁴⁹Equivalent to \$14,5 billion in 2004 dollars.

regarding station spacing.⁵⁰

The system would provide connections to or near significant activity centers relating to jobs, education, recreation, medical care, and cultural interests and would provide broadened opportunities for young and old according to its authors.

Public reaction was not altogether positive, with representatives of some communities complaining that they were not served and others objecting to particular routes and station locations. Others objected that the system was not futuristic enough. The RTD lamented its inability to communicate a larger regional vision in the face of parochial interests, noting [c]ommunity autonomy throughout the area rather than region cohesion prevails.⁵¹ The RTD subsequently unveiled an even larger 201-mile Phase III system, even though its consultants could cost justify only between 60 and 80 miles. The system map only indicated broad corridors where rail could be located, giving the impression that nearly every one in the region would be close to a rail line, and accompanying public materials downplayed any resemblance to the rather mundane BART system, pictures of which the RTD had used to illustrate Phase II.⁵²

⁵⁰Kaiser Engineers Study.

⁵¹Hamer (1976), p. 202.

⁵²Hamer (1976).

The initial ridership estimates had shown that four of the six main corridors in the 89-mile Phase II system would carry over 20,000 riders an hour. However, the Southern California Association of Governments (SCAG), after correcting the optimistic LARTS population figures using its own SCAG90 estimates,⁵³ reported estimates that were much lower. Applying the SCAG 90 figures and other adjustments the RTD patronage estimates for the larger Phase III system were even lower. The district s consultants were forced to admit that a high-capacity rail system was not necessarily needed and that more intermediate solutions might be adequate. The initial and revised estimates (including a possible Pasadena extension and an El Segundo to Norwalk line) were as follows:

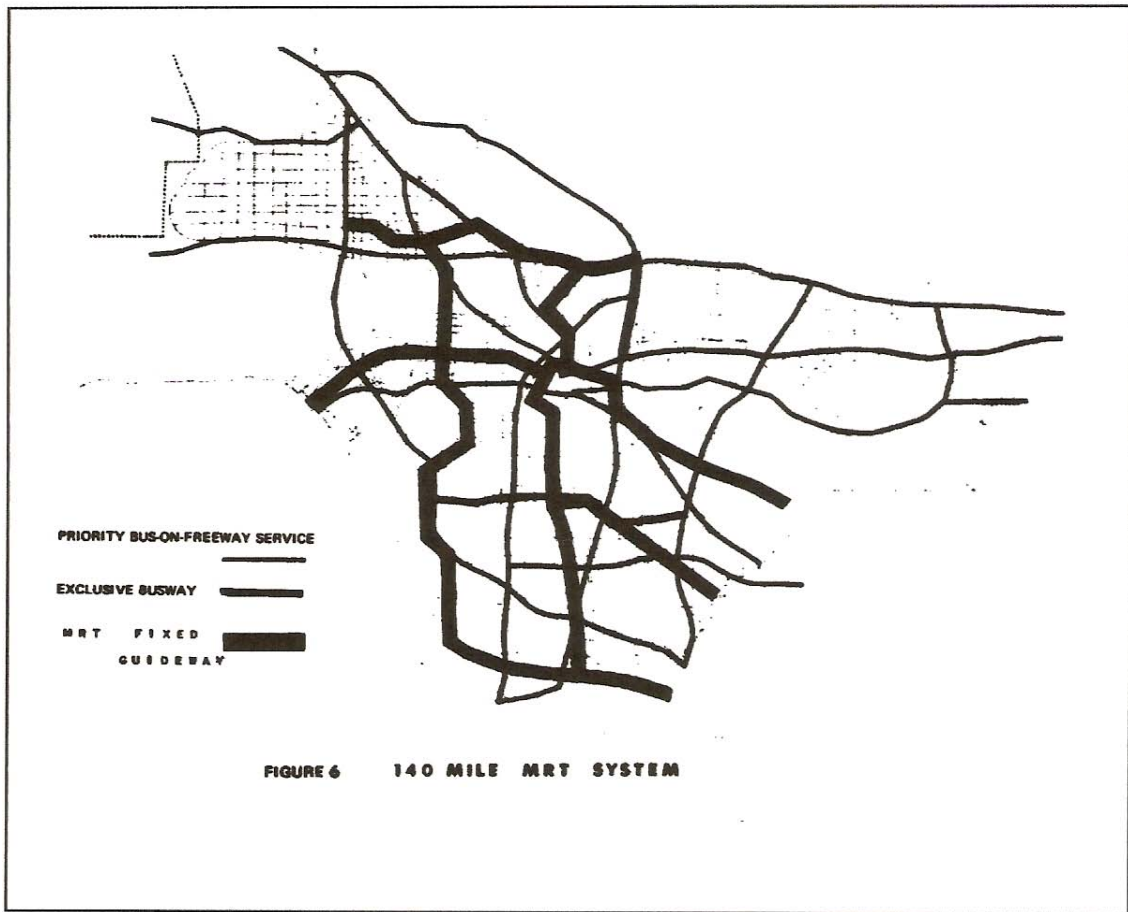
⁵³SCAG replaced LARTS in the 1970s as regional population and employment forecaster. The SCAG90 was released in 1972 and projected a county population of 8.7 million in 1990 compared to the LARTS forecast of 9.5 for 1980. Actual county population in 1990 was 8.8 million.

	Phase II	SCAG II	Phase III
Wilshire	42,000	30,900	17,900
El Monte	26,000	30,233	13,000
South Central	32,000	21,983	19,000
San Fernando	28,000	25,966	10,200
Southwest	12,000	11, 333	4,700
Santa Ana	12,000	16,700	7,000
Pasadena	5,000	12,366	11,400
El Segundo-Norwalk	5,000	9,683	8,400

Nevertheless, the consultants suggested that the revised figures were contrary to common sense and that the figures should be considered *lower* limits. Despite the questionable results, the DMJM report warned that failure to build the rail system would lead to stagnation and decay.⁵⁴

⁵⁴Hamer (1976).

Figure 5.2. The Mass Rapid Transit System (1974)



The Los Angeles County/RTD Bus Service Improvement Program

Prompted in part by the energy crisis of 1973, the RTD also continued efforts to improve transit patronage, seeking funding from the County for a proposed Immediate Bus Improvement Program. The plan promised to institute a flat 30 cent fare, and to immediately purchase an additional 300 buses to improve service.⁵⁵ The RTD, which was already projecting a \$6.8 million deficit for FY 1974-75, also proposed a \$1.2 million commuter rail trial project using existing railroad rights-of-way. The total cost of the entire program was just over \$30 million.⁵⁶

County officials were reluctant to back the RTD's plans. Supervisor Hahn continued to press the District to lower fares and simplify their zone system. Calling the agency a "big pig" that was constantly asking for more money and dragging its feet on rapid transit, Hahn was angered at the District's failure to press the state legislature to make more funds available from the state gas tax for transit.⁵⁷

The RTD planners continued to pursue two tracks to upgrade public transit: (1)

⁵⁵Under the proposal the 30-cent fare would begin on July 1, 1974 and a 25-cent fare would be introduced on January 1, 1975 when an additional 275 buses on order would become available.

⁵⁶Equivalent to \$138 million in 2004 dollars.

⁵⁷*Los Angeles Times*, "Hahn Assails RTD as Lazy, Overstuffed Pig," August 15, 1973; *Herald Examiner*, "Board Hits RTD Over Failures," August 15, 1973.

bus system improvements and (2) rail transit construction. The agency refined its Bus Service Improvement proposal to incorporate a series of short-range and long-range transit improvement projects, including new bus and rail capital projects to be constructed over a 12-year period. In December 1973, the agency proposed a three year Near-Term Program to improve local bus service until the MRT system could be built. The program would expand local bus service by adding 100 new buses by 1977, improve freeway and highway capacity, construct new park-and-ride facilities, and introduce bus priority measures on some freeways and arterial streets. The RTD planned to expand the bus fleet by 1000 buses, while grid systems would be developed in the Eastern San Gabriel Valley, South Central, San Fernando Valley and South East areas, covering over half the population in the district. Priority service would be established along the Wilshire Corridor and additional demand-response bus service would be provided to a number of communities.⁵⁸ A total of 27 park-and-ride lots would also be established. The total cost of the improved bus service proposal was now \$200 million.⁵⁹

Beyond these near term projects, the intermediate-term plans called for expanding the bus fleet to 1400 buses, developing transitways on freeways, and completing major links in the freeway system. The RTD developed a continuing bus system expansion program to add 100 new buses plus 150 replacement buses each year for nine years. In

⁵⁸RTD, Near Term Transit Improvement Inventory, March 20, 1974.

⁵⁹Equivalent to \$851 million in 2004 dollars.

addition to bus expansion, the RTD developed a program of major surface and freeway bus improvements on major arterials and freeways designed to create a regional bus network. Together with the Near-Term Program, the project would nearly double the fleet size by the year 1981. The cost of the Intermediate Program was \$300 million.⁶⁰

Over the long term, the RTD proposed a 121-mile fixed guideway system to be constructed in several phases tied to available federal financial assistance. The total system consisted of 25 percent subway construction, mainly in the downtown region, and 75 percent aerial structures in outlying areas.⁶¹ The combined cost of all service improvements, near, intermediate, and long-term, would total \$7.5 billion.⁶²

The RTD and the County eventually reached some agreement for financial assistance. The RTD agreed to eliminate over 300 fare zones and institute a \$0.25 base fare for a three-month trial period from April 1 to June 30, 1974. The County agreed to provide a \$9 million subsidy to fund the program. The fare reduction resulted in an increase of over 100,000 bus riders per day, while the percentage of non-captive riders choosing to ride buses increased from 43 percent to 63 percent. Bus travel rose by 16,000

⁶⁰Equivalent to \$1,276 million in 2004 dollars.

⁶¹A smaller 42-mile interim rail system would end at North Hollywood, La Brea, LAX, Compton and Union Station.

⁶²RTD, Wilbur Smith and Associates, Implementation Schedule for a Public Transportation Improvement Program, Technical Working Paper, May 1974. Equivalent to \$31.9 billion in 2004 dollars.

miles daily and it was estimated that automobile pollution emissions decreased by 21 tons per day.⁶³

With regard to the overall program, the RTD plan ran into opposition from the County Road Commissioner. Reacting to the District's MRT proposal, I. L. Morhar, the Road Commissioner, suggested the County first test the feasibility of an all-bus alternative along the Wilshire and South Central corridors before embarking on a massive rail construction program. He also urged that the County concentrate on supporting the near-term and intermediate-term transportation improvement proposals advanced by the RTD, and defer any decision on rail until the all the bus system upgrades had been completed.

Commissioner Morhar suggested combining the near term and intermediate term program into a 3-5 year bus expansion program costing \$437 million over the first three years in capital improvements and \$616 million in maintenance and operation costs.⁶⁴ He also argued that there were sufficient state, local and federal funds available to finance the intensive use bus program without the proposed one-cent sales tax (authorized by AB

⁶³County of Los Angeles, Final Report: An Evaluation of Three-Month Trial 25¢ Flat Fare in Los Angeles county, July 26, 1974. The Road Commissioner concluded that the increase was only 86,000 (or an 18% increase) at a subsidy of 68 cents per rider, which he considered disappointing since it amounted to less than 1/2% of the 21 million daily passenger trips in the County.

⁶⁴Los Angeles County Road Department, Evaluation of Southern California Rapid Transit District Consultants Phase III Recommendations for Near Term & Long Range Public Transportation in the Los Angeles Basin, June 1974, hereinafter Road Commissioner's Report.

1727). He recommended to the Board of Supervisors a Los Angeles Balanced Transportation Plan consisting of three elements:

Near-term program of immediate improvement in transit service and improvements to highway system

Intermediate-term program of continuing expansion of transit service and highway improvements

Long-range plan to identify and develop regional mass transit system when need is demonstrated.⁶⁵

The near-term (1-3 years) program of transit and highway improvements included bus service, express bus services on freeways, park-and-ride facilities, priority treatment for buses on streets and freeways, intensive carpool matching services, and improvements in existing freeways and highways capacity (see Figure 5.3). The intermediate (1-5 years) program included expansion of the bus system, development of new busways on the freeways, and expanding the existing freeway and highway systems by completing

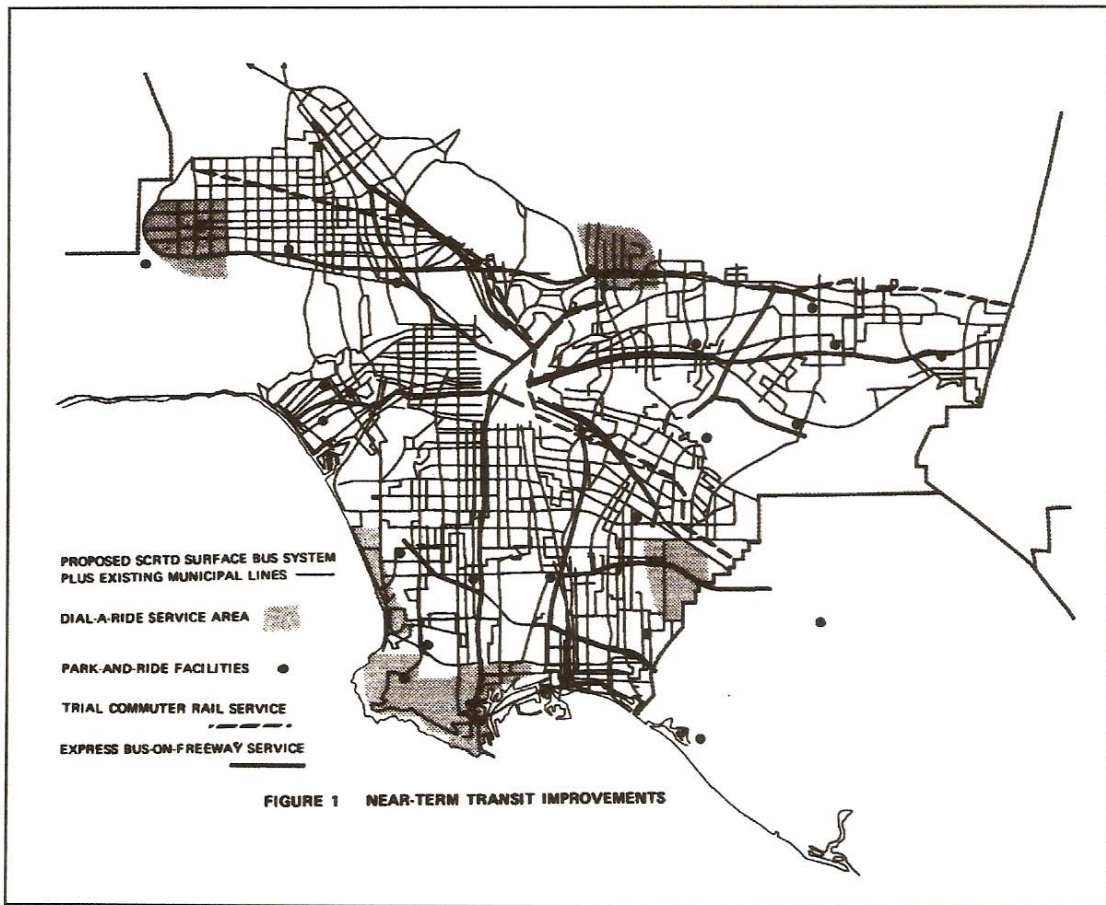
⁶⁵Letter to Board of Supervisors from I. L. Morhar, Road Commissioner, re Evaluation of RTD Consultants Phase III Report, June 24, 1974.

missing links in planned systems.⁶⁶ For the long term, he urged that mass transit should be constructed only where bus rapid transit could not meet service demands. Under this approach, the rail system would be constructed through a building block approach as need and when funding was available, but there would be no tax increase. The proposal represented a scaled back version of the District's MRT proposal, relying on exclusive busways and priority bus-on-freeway service in place of fixed rail (see Figure 5.4).⁶⁷

⁶⁶Road Commissioner's Report, p. 34.

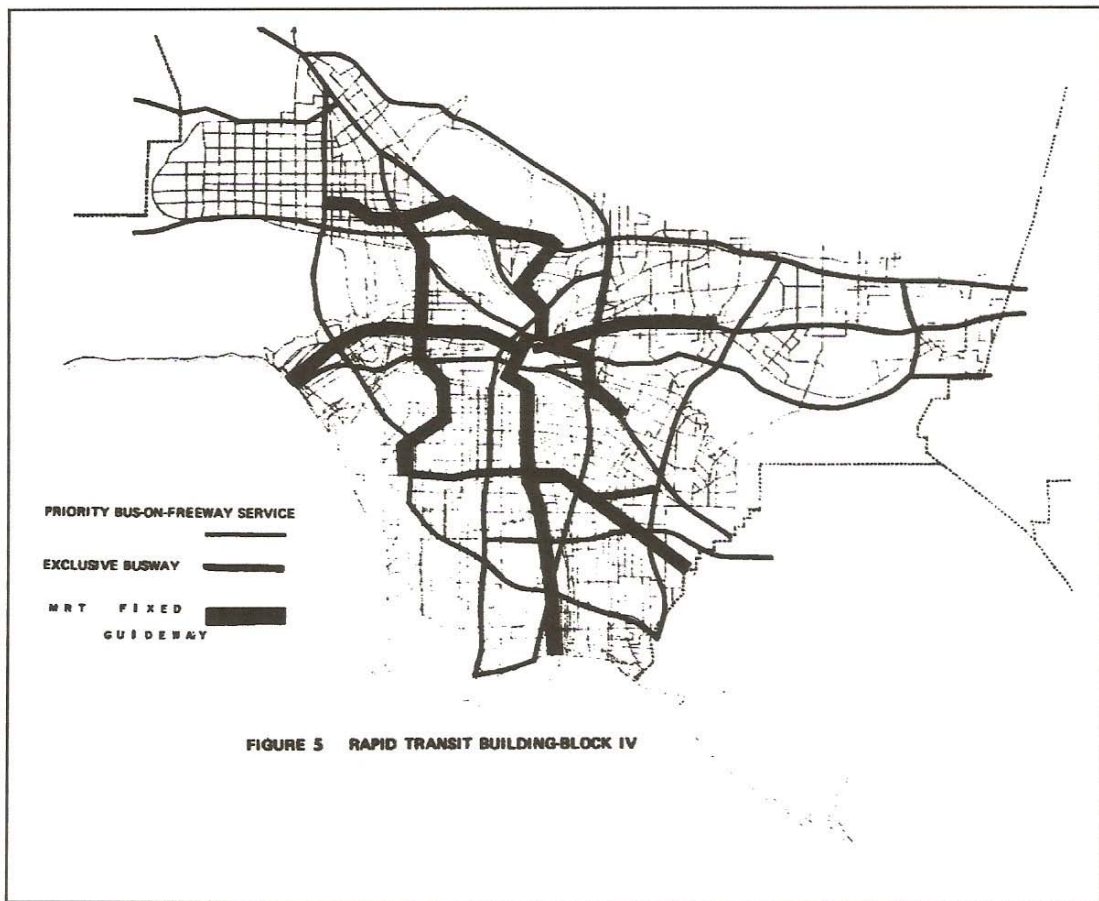
⁶⁷The Road Commissioner noted that the RTD's estimated ridership for the rail system of 1,500,000 rider per day had been increased to 3,000,000 assuming the use of auto disincentives. Letter to Board of Supervisors from I. L. Morhar, Road Commissioner, re Evaluation of RTD Consultants' Phase III Report, June 24, 1974.

Figure 5.3. Balanced Transportation Plan Near-Term Transit Improvements (1974)



Source: Los Angeles County Road Department, Commissioner s Report, 1974.

Figure 5.4. Balanced Transportation Plan Rapid Transit Building Blocks



Source: Los Angeles County Road Department, Commissioner s Report, 1974.

The RTD requested funding from the Board for a number of programs contained in the Road Commissioner s Balanced Transportation Plan, including implementing priority services on freeways and arterial streets. The Board of Supervisors agreed to

continue the experimental fare reduction program beyond the three month trial period. In addition, on July 2, 1974, it approved and also agreed to fund a portion of the RTD s Near-Term Program. The new Plan for Balanced Transportation approved by the County contained two key elements:

- 1) An immediate major expansion of the existing bus fleet, including additional lines and the expansion of existing lines to supplement and act as feeder service to the ultimate guideway network. This program continued the present county-wide 25¢ flat fare plus free transfer privileges on RTD lines and between RTD lines and other transit operators in the county;
- 2) A construction program for a county-wide mass rapid transit system on fixed guideways.⁶⁸

The County and the RTD entered into a contract on July 26, 1974 to improve local bus service. The RTD agreed to develop a number of east-west crosstown lines and to

⁶⁸RTD, A Bus Service Improvement Progress Report Presented by the Southern California Rapid Transit District to the Board of Supervisors of Los Angeles County, January 1975, p. 14.

establish two bus grid systems in the South Central Area⁶⁹ and the San Fernando Valley (see Text Box), in exchange for which the County would subsidize losses from the reduced fare program and the bus expansion program from its federal revenue sharing funds.⁷⁰ In total, the County allocated \$32.5 million to cover the RTD s operating deficit of \$6.8 million for FY 1974-75, fund the 25-cent fare, and inaugurate the bus improvement program.⁷¹

The fare reduction produced an average 18 percent increase in ridership. In January 1975, the agency requested a \$19.9 million subsidy from the County Board of Supervisors to extend the 25¢ Fare Program for another year and implement the bus expansion program.⁷² The RTD sought approval from the Supervisors to add 410 buses to the fleet to reach its goal of 1000 new buses, bringing the total fleet to 2270 buses by the end of the fiscal year. The District threatened that without additional county assistance, fares would have to be raised to 35 cents and the 20-cent fare zones would have to be restored, with a resulting likely decrease in patronage.

⁶⁹The boundaries of the South Central grid project were Olympic Boulevard, Crenshaw, Rosecrans Avenue and Alameda Street.

⁷⁰RTD, A Progress Report on Bus Planning Activities, September 10, 1974. The County and the RTD entered into a contract July 26, 1974. The District was to receive 300 new buses in December of which 200 would be used to retire older buses. A total of 300 buses would be used to test the two new grid systems for a cost of \$4.2 million.

⁷¹\$42 million for grid system.

⁷²Letter from Thomas Neusom to Board of Supervisors, February 4, 1974.

Bus Grid System

In the South Central area the new routes were designed to provide frequent 20-minute service on all lines seven days a week, provide service within 1/4 mile (3 blocks) of every resident in the project area, coordinate transfer connections and improve mobility within South Central and to adjacent communities including South Gate, Inglewood, Hawthorne, and Huntington Park. Under the experimental plan, a total of 91 additional buses would operate within the grid, in coordination with existing lines servicing the area, reducing most trips to no more than one transfer. The vehicle miles in service on weekdays would nearly double from 6,800 to 12,300 and would increase to 14,700 on Saturdays.

RTD, Bus Grid System Proposed for South Central Los Angeles, December 1974.

The grid system attracted a significant number of new bus riders both day and night on nearly all lines. The District found after six months, that significant social, economic and environmental benefits were being achieved. Many of the new trips were non-work related, including shopping, school, recreational and social purposes. Results in the San Fernando Valley, where median family income was nearly twice as high and only five percent of households were without automobiles, were more mixed. In particular, far fewer trips were made there during the night and evening than for South Central.

RTD, Grid Evaluation Report, undated.

Mass Transit Redux

In November 1974, the RTD placed the issue of funding a 145-mile⁷³ rapid transit system, costing more than \$8.3 billion,⁷⁴ before the voters who were asked to approve a 1.0% increase in the county sales tax.⁷⁵ Despite opposition from County Road Commissioner Morhar, the rail transit proposal had strong backing from the County Board of Supervisors, the Automobile Club, the League of Women Voters, and this time also from the *Times*. Although newly-elected mayor Tom Bradley had campaigned on providing a more community oriented transit system, including jitneys and express buses, he agreed to support the measure once he had secured a legislative veto power over the rail plans. As happened with earlier regional rail proposals, a coalition of smaller cities and local chambers of commerce opposed the measure on the grounds that it would only serve a small fraction of the county's population but would burden all taxpayers.⁷⁶

In the campaign the RTD tried to present the proposed system as one that would benefit the poor, minorities, the elderly, and the young. To demonstrate that the project

⁷³The referendum system consisted of portions of the 201-mile Phase III proposal.

⁷⁴Equivalent to \$31.8 billion in 2004 dollars.

⁷⁵The ballot had two parts. Part 1 authorized a sales tax increase up to one-half of one percent to be used to provide capital funds for mass transit programs. Part 2 provided a one-half of one percent sales tax increase to be shared among local operators. Were Part 2 to be approved, the RTD was required to establish a 25-cent flat fare through 1980-81.

⁷⁶Citizens Advisory Committee on Rapid Transit (CACORT), Initial Review and Evaluation of the RTD Response to CACORT Recommendations, August 21, 1974.

would increase access to job opportunities, as well as other activities, the agency superimposed the routes on a map showing the location of transit-dependent populations to illustrate that the system would serve areas where they lived. This despite their own consultant's conclusion that the lines did not necessarily take residents where they needed or wanted to go. Noting that most of the poor living in Watts and South Central by and large did not travel to the CBD for employment, they added:

If matching of skill types with skill needs can be used as an indicator of access to employment, then it can be said that for the residents in Van Nuys [in the predominantly suburban San Fernando Valley] there is a potential for greater access to employment as a result of mass rapid transit. The employment impacts on South Central Los Angeles are not as apparent. It is true that some employment opportunities will become available to South Central residents with the CBD as a result of MRT. But given that the majority of these individuals currently work within South Central Los Angeles and their skill levels do not match well with the skill needs of the CBD, positive employment impacts for them are likely to be minimal.⁷⁷

⁷⁷Grigsby, J. Eugene, and William Andrews, Mass Rapid Transportation as a Means of Increasing Access to Employment Opportunities for Low Income People - Another Con Game, in Arthur D. Little, Inc., Community Impact Analysis of the Proposed Rapid Transit Program, May, 1974, quoted in Marcuse (1975), p. 17.

Reflecting on the proposal shortly after the election, Peter Marcuse concludes that the ridership benefits of the system would have gone, by and large, to the white, middle and upper class, to white collar employees and executives and professionals commuting to work downtown from suburban residences. Real estate, commercial and development benefits would likewise have gone disproportionately to property-owners and business in the downtown area.⁷⁸ He also notes that the sales tax was a regressive mechanism for financing the system that would more heavily impact the poor.

There were other concerns raised about the proposal at the time. The Southern California Association of Governments (SCAG) recommended focusing on improving shorter distance trips with an intermediate capacity system, rather than actually encouraging even greater sprawl by facilitating long distance commuter trips with a high-capacity rail lines.⁷⁹ Even the Los Angeles City Planning Commission had its doubts over how the rail system would affect land uses within the city, although Mayor Tom Bradley was officially in support of the project. The Mayor had campaigned on improving local transit, and saw the sales tax as the first step toward building a better system, though he personally favored more community-oriented bus programs. Bradley got SCAG to endorse the tax, though not the system itself, with the proviso that it would

⁷⁸Marcuse (1975), pp. 18.

⁷⁹ Southern California Association of Governments, Critical Decision Plan for Regional Transportation, Los Angeles, May, 1974, discussed in Marcuse (1975).

not approve any projects for federal funding until various conditions were met. He also had state legislation adopted that in effect gave him a veto power over RTD construction within the City of Los Angeles. Bradley would become a supporter of what would be the first leg of a Los Angeles-Hollywood-San Fernando Valley subway project along Wilshire Boulevard from downtown, but he would also have to protect it against even more expansive rail projects serving areas outside the downtown and the city.

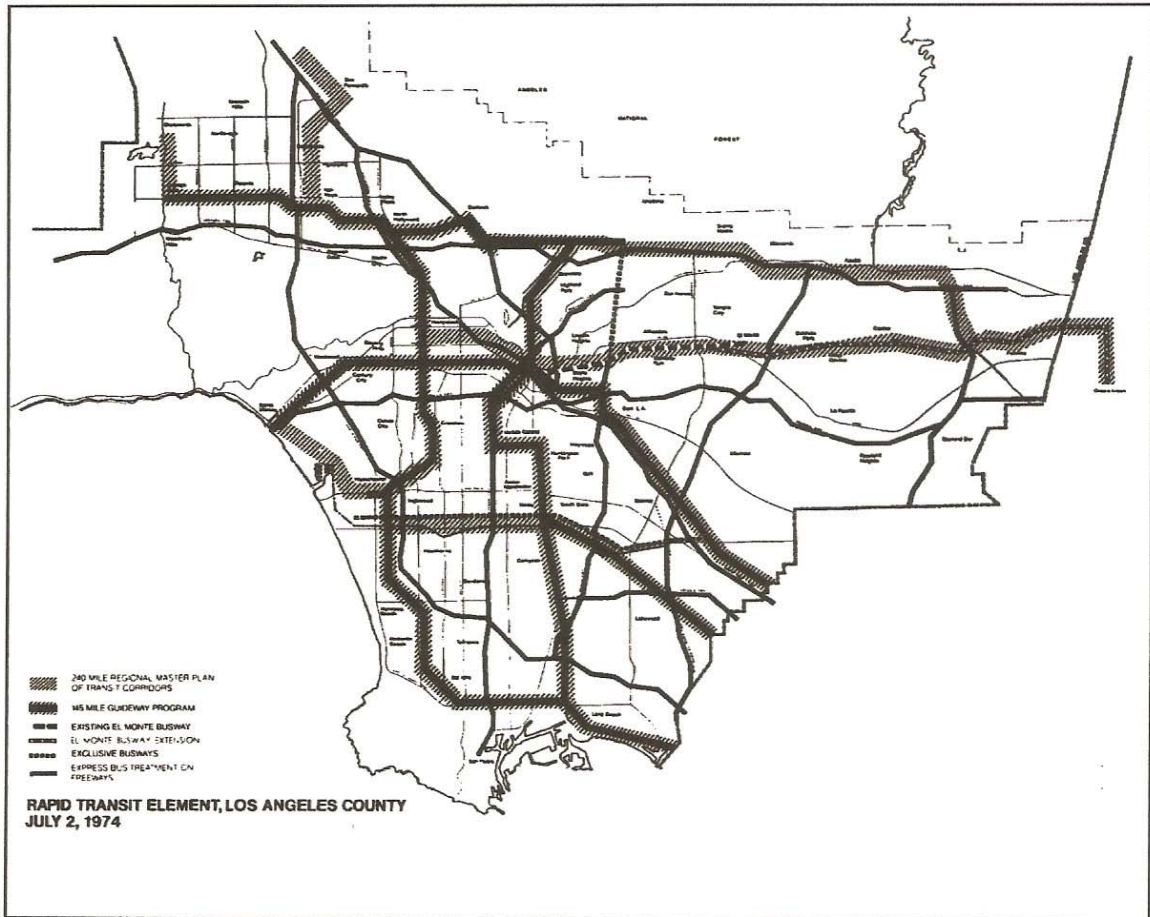
Presented to the voters in the November election, the measure was defeated, this time earning only 43 percent of the vote. Economic worries, resistance to a tax increase, a recent two-month transit strike, public distrust of the RTD, or dissatisfaction with the details of the plan may all have contributed some measure to the defeat.⁸⁰ Nevertheless, the RTD could claim some progress as the County Board of Supervisors incorporated the MRT system into its federally-mandated Regional Transportation Plan as the 145-mile guideway portion of the full proposed 240-mile rapid transit system (see Figure 5.5). The RTD also formally decided to construct the entire plan in June 1975, to be completed in stages using alternate funding.⁸¹ Unfortunately, the RTD plan, ambitious as it was, was still mainly focused on improving travel on a limited number of routes, mainly connecting to the downtown. County politicians, were however, starting to envision a far

⁸⁰Marcuse (1976).

⁸¹Using conventional rail technology the cost of the system was estimated at \$4.7 billion in 1974 dollars. The difference between the 201-mile Phase III proposal and the 240-mile proposal appears to result from double counting overlapping line route miles. Hamer (1976).

larger regional system that would tie together the area's far-flung communities. The RTD plans were soon at risk of being swallowed up in this grander scheme. At the time, though, there were still no committed funds to implement either plan.

Figure 5.5. Los Angeles County Regional Transportation Plan, Rapid Transit Element (1974)



Source: Los Angeles County Regional Transportation Plan, 1974.

Twice rebuffed by the voters, the RTD continued to seek funding for its regional rail system from state gasoline taxes and federal rail assistance programs. By the mid-1970s, with political opposition to future freeway construction growing, and new federal

regulations to improve air quality, rail projects had again become politically attractive. Federal and state governments were beginning to provide large subsidies for mass transit. As described in Chapter Two, in November 1974, Congress voted to make capital and operating assistance available to local transit operators. The National Mass Transportation Act of 1974 established a six year, \$11.8 billion program of which almost \$4 billion could be allocated locally, on a population and density basis, by the Urban Mass Transportation Administration (UMTA) within the federal Department of Transportation (DOT). A local revenue source was necessary, however, in order to secure matching UMTA funding.⁸² Also in 1974, California voters approved state Proposition 5 authorizing counties and cities to use a portion of their gas tax revenues for fixed guideway rapid transit. These funds could also be used as local match funds for UMTA capital grants. With the prospect of outside funding dangled in front of it, the RTD again went to work stitching together a new regional transit proposal.

The RTD identified hundreds of miles of existing rail track and rights of way, some once part of the old PE railway, that could be used in the District's long range rapid transit plans. The Southern Pacific line from Union Station along the Los Angeles River into the San Fernando Valley northwest to Chatsworth was considered a viable route for commuter rail and the RTD initiated actions before the Public Utilities Commission to condemn a right of way. Another line extending south from the CBD along the Santa

⁸²In 1979, the state legislature increased LACTC authority to regulate transit. Assembly Bill 103.

Ana freeway corridor to San Diego was also identified as a priority candidate corridor. The County Board of Supervisors strongly supported this effort, to the tune of appropriating over \$4 million from its budget.

A Starter Line

The RTD, backed by the City of Los Angeles, supported the proposed subway system running under Wilshire Boulevard from downtown to Santa Monica with future connections to Hollywood and the San Fernando Valley, while suburban interests generally opposed the Wilshire alignment as too tied to downtown. RTD planners argued that the high density east to west Wilshire Corridor was the most suited location for rail. The County Board of Supervisors did not, however, get on board with this limited proposal. Instead, its members pushed for a more regional approach.⁸³ A competing proposal backed by the County Board of Supervisors envisioned a much larger regional system using existing rights-of-way that would connect distant locations such as Long Beach to the south and Canoga Park in the western San Fernando Valley.⁸⁴ Supervisor Ward, representing the Valley, pushed for giving priority to a rail line connecting it to downtown. Supervisor Hahn revived his idea for a passenger rail line from Los Angeles

⁸³*Los Angeles Times*, Agency Proliferation Snags Transit Plans, August 31, 1975, Part II, p. 1.

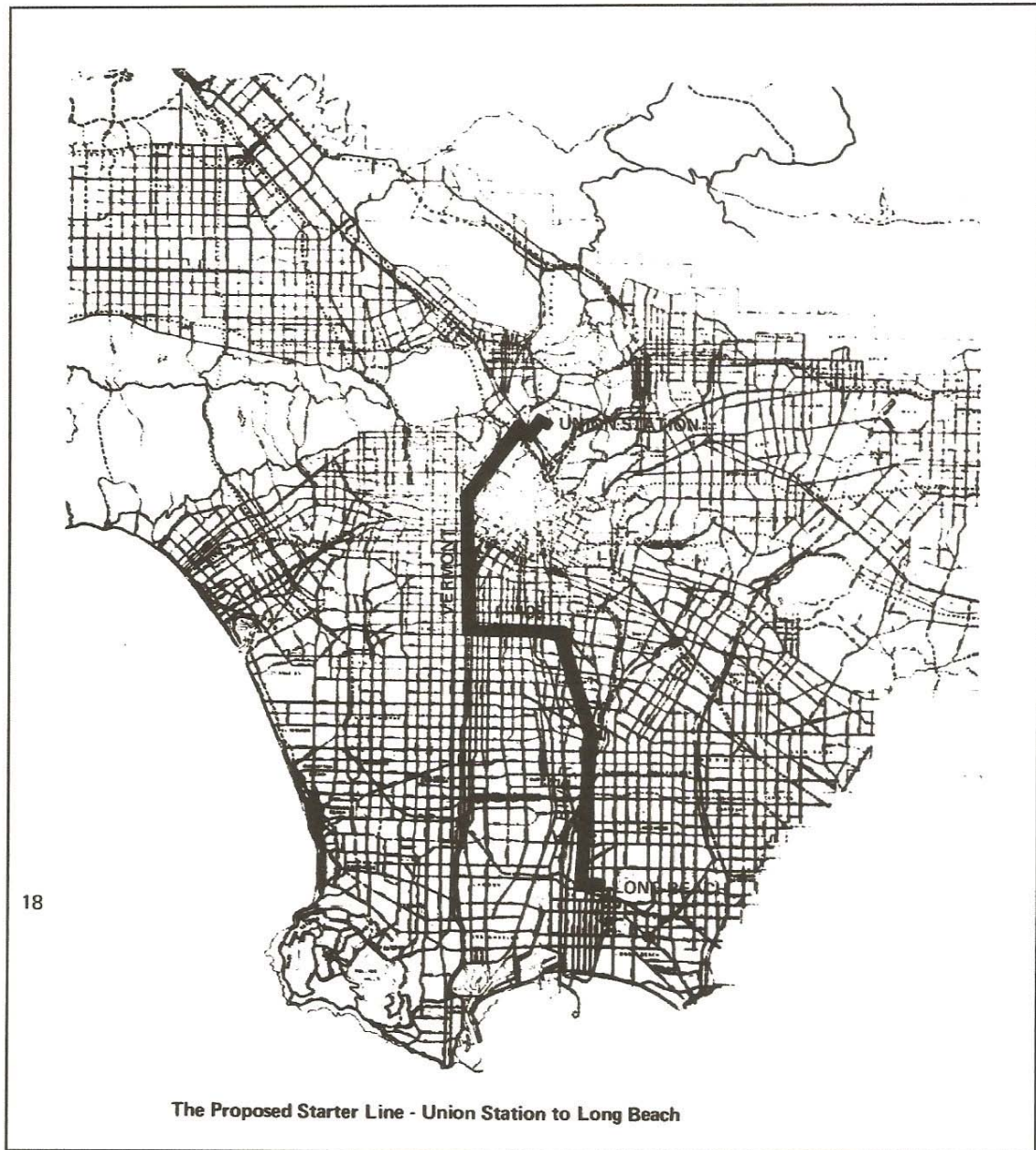
⁸⁴Richmond (1992); Richmond (2005).

to Long Beach and San Pedro, using the old Red Car line, as a less costly alternative to the subway because it would not involve underground construction. The competing views of numerous local city and county officials led to a political impasse.

The following year the RTD appointed a Rapid Transit Advisory Committee (RTAC) to consider a number of different options for rail transit. Bradley continued to push for the subway while some of the Supervisors, Baxter Ward especially, and representatives from outlying cities along the San Fernando-Long Beach Corridor backed the longer north-south route. Eventually, in an effort to reach a political compromise Mayor Bradley agreed to support the southern leg of the corridor, from downtown to Long Beach through the predominately black South Central area of the City, as the official starter line for purposes of applying for federal matching funds (see Figure 5.6). The RTD voted to make the line its first priority and to postpone decisions on both the northern and east-west routes.⁸⁵

⁸⁵Richmond (2005).

Figure 5.6. Union Station to Long Beach Starter Line



Source: Los Angeles County, Board of Supervisors. The Sunset Coast Line: Route of the New Red Cars, 1976.

In 1976, the RTAC completed its study of the regional transportation system. Based on that study, state and local agencies agreed on a four-part transit program known as the Regional Transit Development Program (RTDP) consisting of: (1) a regional transportation systems management (TSM) program; (2) a regional bus-on-freeway system including exclusive bus lanes; (3) a fixed guideway downtown people mover system recommended by the Los Angeles Community Redevelopment Agency (CRA); and (4) a fixed guideway rapid transit system running in the Regional Core.⁸⁶ The RTDP endorsed an initial rapid transit project, far shorter than the unsuccessful 145-mile MRT proposal, that would run underground from North Hollywood downtown to Long Beach, similar to the 1951 monorail proposal.⁸⁷ It was chosen from five different potential starter lines located in a broad study corridor stretching from the West San Fernando Valley to Long Beach. Of those five, only three scored positive for high cost effectiveness: the South Central increment (Union Station to the I-105), the Wilshire Corridor (Union

⁸⁶The TSM program was designed to maintain existing service by replacing over-age buses and maintenance facilities, introducing high-capacity buses (articulated and double-deck) on heavily used routes, constructing transfer stations, and developing preferential bus lanes and encouraging ridesharing. A service expansion component was designed to add 900 buses over a five year period, of which 750 would be allocated to the RTD fleet and the remainder among local operators. The Freeway Transit program was designed to significantly increase bus service on the county freeway system and would require some 1,000 additional buses and up to 100 new bus stations and 100 miles of additional bus, carpool and vanpool lanes. In addition to the El Monte busway, priority areas for future busways were established along the Century, Harbor and Santa Ana Corridors. The Downtown People Mover would be a three-mile, automated, fixed guideway system connecting the Union Station and the Convention Center. The system would have 13 stations and use 60 vehicles.

⁸⁷Sechler (1999).

Station to Century City), and the Regional Core (Union Station to North Hollywood).⁸⁸

Sunset Coast Line

Meanwhile, another rail proposal, sponsored by County Supervisor Ward, for a 230-mile regional commuter rail network known as the *Sunset Coast Line*, went down to defeat handily in 1976.⁸⁹ Ward's ballot proposal would have guaranteed 60 percent of the revenues from a one-cent sales tax to fund rail transit construction and operation with the balance available for bus operations. Fellow Supervisor and RTD Boardmember Pete Schabarum opposed the measure, as did the *Los Angeles Times*.

In addition to the 85 mph, grade separated heavy rail lines the plan included another 51 miles of light rail and monorail feeder lines, which would have made it the largest in the country (see Figure 5.7). Cost of the system was projected at \$3-4 billion (1976 dollars) over 12 years (not including the previously approved Long Beach starter line estimated at \$910 million⁹⁰ to be funded by state gas taxes and Federal funds).

⁸⁸The report concluded, though, that a high-level bus system was the most cost effective approach for providing regional transit.

⁸⁹Richmond (1992); Adler (1987); McCullough (1996) The proposal was defeated 60-40 percent. *Press-Telegram*, Blue Line gives Hahn last laugh, July 8, 1990, pp. 3&5.

⁹⁰Equivalent to \$3,021 million in 2004 dollars.

Contending that earlier proposals had failed since they were not comprehensive enough, the Sunset Coast promised rail lines within 1½ miles of 80 percent of the jobs and residents in the county for only 10 cents a day. Buses would be rerouted to provide short feeder service to 148 Locals, 40 Red Car Interurbans, and 30 Airporter Trains (direct service to LAX). The extent of the anti-bus bias is apparent in the arguments presented in the County's promotional literature:

Los Angeles might be having a love affair with the auto, but after 30 years, there is not a flicker of feeling for the bus. And their fumes add to problems with our air.

Even the gasoline shortage and the 25 cent bus fare failed to affect us emotionally. There was to be no shotgun wedding with buses.

Because the heart still returns to the rails, people still talk about the Big Red Cars and ask these sensible questions:

Why isn't there a transit line over the freeways?

Why don't they use existing rail lines?

What about those flood control channels?

When are they going to try a monorail?⁹¹

The ambitious plan called for building a new RTD headquarters and rail terminal behind

⁹¹Los Angeles County (1976), p. 7.

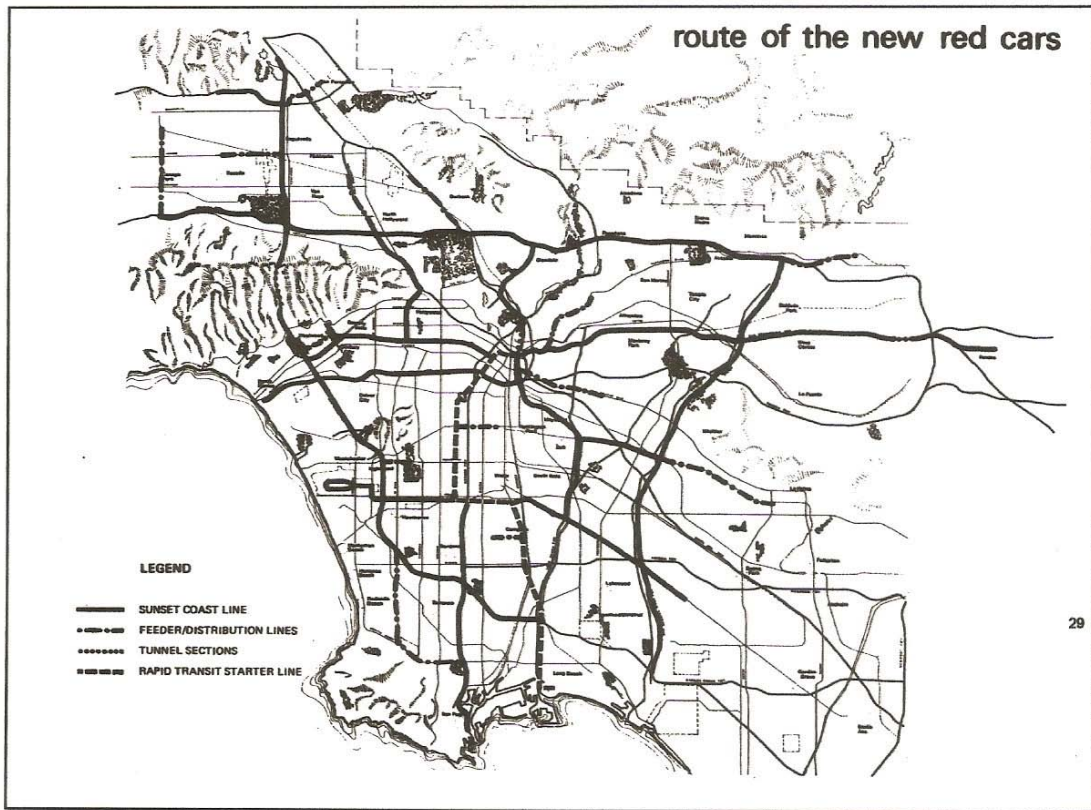
Union Station, and keeping rail construction costs down by using existing rights of way, freeway medians, and flood control channels for train lines. Tunneling would be avoided as much as possible in favor of less costly elevated tracks. It also made clear the County's (or at least Baxter Ward's) antipathy to the Wilshire Subway project:

There is a belief held by many that the Wilshire Corridor problem has been the weight that held down required public support of the last two transit ballot issues. Residents County-wide suspected that the Wilshire line was using much of the funding in an expensive subway development, with little or nothing left over for the rest of the County.⁹²

Ward's proposal would have funded the Wilshire project on the same basis as others in the systems, as an elevated line. The cities of Los Angeles and Beverly Hills would have been responsible for any additional costs to construct a subway.

⁹²Los Angeles County (1976), p. 19.

Figure 5.7. Sunset Coast Line



Source: Los Angeles County, Board of Supervisors. The Sunset Coast Line: Route of the New Red Cars, 1976.

Conclusion

Following the Watts disturbances, the RTD made some progress in improving bus service to transit dependent residents. It purchased remaining local bus lines that served minority areas and experimented with ways to improve service. At the same time it focused on an incremental approach to rail and concentrated on placing rail where it could generate the greatest benefits, along the heavily traveled Wilshire Boulevard.

The RTD's efforts to this point reflected at least some attempt to balance the needs of existing bus patrons with its mandate to develop a regional rail system. While not necessarily directly responsive to the Watts disturbances or the McCone Commission recommendations, its concern for bus improvements, fare reductions, and a go-slow approach to rail construction held out some promise, at least that an equitable solution to the region's transportation problem might be found. But as with most things, it's never that simple. There were those who saw in the social and economic changes taking place the danger that Los Angeles would lose out to the growing influence of its satellite offspring. As population spread to outlying areas, they saw the need to both reinvigorate the downtown area as the healthy center of regional growth, as well as guarantee that it had access to a now more distant workforce, finding it increasingly difficult to navigate the ubiquitous freeways that were supposed to provide an ultimate solution to the problem of growth. The problem, once again, was how to reconcile the competing proponents of

centralization and deconcentration. As described in the following chapter, by the 1980s gasoline shortages, air pollution, congestion, all combined to produce a brief, but significant opportunity for these divergent interests to coalesce and agree on a formula to bring rail transit back to Los Angeles.

Despite the setbacks the RTD suffered in gaining voter approval for its programs, the agency continued to work toward developing some form of rail transit system, even as it sought to improve its local bus operations, but its inability to generate support among either local politicians for its proposals had further, and ultimately more far reaching consequences, for by then the RTD was no longer the only player in the regional transit game and the game was about to get a whole lot rougher.

CHAPTER SIX: THE QUEST FOR RAIL, 1976-1990

The failure of the RTD to secure voter approval for a rail system in two separate elections prompted the state legislature to establish a regional agency to oversee transportation planning in Los Angeles County. In 1976, it created the Los Angeles County Transportation Commission (LACTC) with the mission to develop a unified transportation program for Los Angeles County.¹ There was hope that the new agency would be able to forge a political consensus in support of rail development.² While these efforts were ultimately more successful than those previously undertaken, they too faced the problem of reconciling competing geo-political concerns between downtown and suburban interests, and transit dependents and choice commuters. As would become increasingly clear, it would also mean addressing new social conflicts brought on by the county's racial and ethnic polarization as well as the tension between achieving regional air quality goals through mass transit improvements and serving the needs of existing transit users.

¹Assembly Bill 1246 (1976); Stats. 1976, ch. 1333, § 6035.

²McCollough (1996).

The legislation creating the LACTC specifically identified population sprawl, concentration of mass transit dependent citizens in large urban areas, and increasing mobility requirements as making a coordinated and integrated transportation system necessary to reduce automobile usage and dependency, save fuel, and reduce automobile pollution. That system would need to provide adequate public transportation to all citizens, including the poor, elderly, and handicapped.³ To carry out that mandate, the LACTC would, among other things, be responsible for (1) approving all plans for the design, construction, and implementation of any mass transit guideway system, (2) developing short-term capital and service plans, and (3) coordinating all transportation activities within the county.⁴ The RTD would be the operator of such system.⁵

The composition of the Commission was intended to represent a broad array of regional interests. The Board of the LACTC consisted of the five Los Angeles County Supervisors, three representatives from the City of Los Angeles, including the mayor, two representatives chosen by the Los Angeles County City Selection Committee, a member of the City Council of the City of Long Beach, and an ex-officio member appointed by the Governor.⁶

³California Public Utilities Code § 130001.

⁴California Public Utilities Code §§ 130250, 130252, 13303.

⁵California Public Utilities Code § 130254.

⁶California Public Utilities Code § 130051.

Formation of the LACTC not only brought county transportation planning under one roof, but it also marked the beginning of a long struggle over the future direction of public transit between the new regionalists in the LACTC and the old downtown centered veterans of the RTD. RTD officials were primarily interested in upgrading their existing bus system, and viewed their proposed Wilshire subway as crucial to improving bus operations in the highly congested downtown area by reducing surface traffic entering and leaving the central business district. The LACTC, reflecting perhaps the geographically dispersed membership of its board was, by contrast, more concerned with developing an integrated regional transportation system using innovative technology. There were also those in the new agency who felt that the RTD was being mismanaged and that its bus operations were very inefficient. They believed that the RTD would be unable to carry out such a complicated engineering project as constructing a subway. The LACTC, with no in-house design or engineering capacity of its own, nevertheless began to focus on developing its own regional rail network and wresting control of the Wilshire Corridor project from the bus operators in the RTD.⁷

The LACTC planners perhaps received some support from an unlikely source, the Los Angeles City Planning Department, which in one of its few creative acts, attempted to find a way out of the historic tug of war between central and peripheral interests. The answer came in part, from an innovative planning proposal. It was unfortunately not one,

⁷Richmond (2005).

however, that addressed the social and racial changes that were taking place, and as a result, helped to move the debate toward a much less balanced approach to public transit.

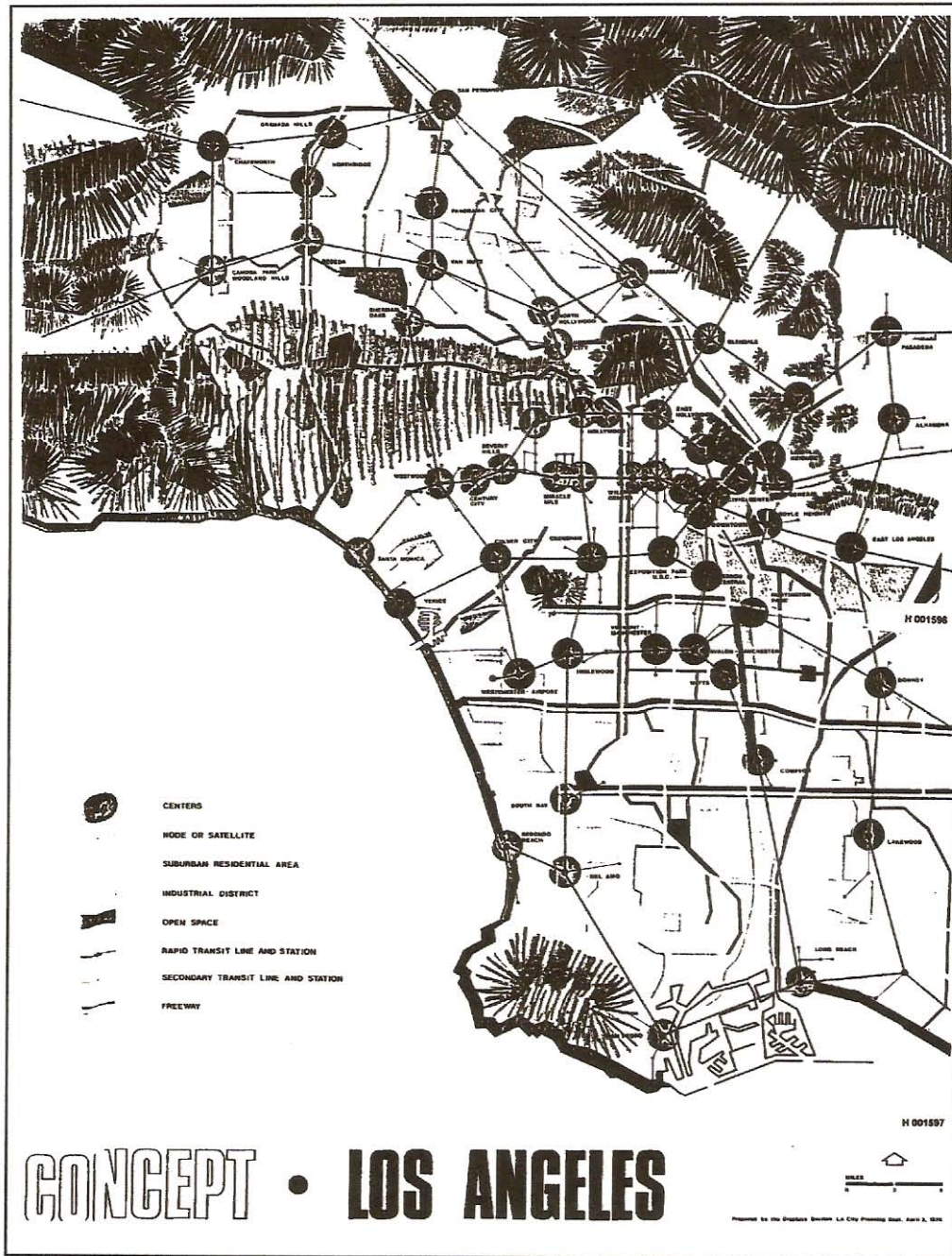
The Centers Concept

By now it was becoming increasingly clear to many that the low and moderate density suburban sprawl that characterized the region and made automobile travel a near necessity was adding to the problem of traffic congestion as more and more drivers jammed onto already overburdened local freeways. Even so, transit planners had yet to rally the political support necessary to realize a rail alternative. At the same time, the continued suburban growth that the freeway system sustained, was threatening the very low density lifestyle that it helped to create. A new planning approach was needed to accommodate major projected increases in population at acceptable residential densities. Rail development would be a significant element of that spatial fix.

In the early 1970s, LA's peripatetic city planning director, Cal Hamilton, envisioned a bold new plan for the region that promised to revitalize Los Angeles historic development pattern. Eschewing the traditional notion of a single downtown core, Hamilton and his staff drew up a visionary proposal that both acknowledged and

built on the areas polynucleated structure. It called for developing a series of centers spread throughout the Los Angeles region, linked together by a high speed grade-separated rapid transit system, as shown in Figure 5.9. Centers would contain a high intensity of varied urban activities: residential, commercial, cultural, recreational and appropriate industrial uses. Hamilton's Concept Los Angeles Plan provided that for the most part, stations will be confined to Centers in order to avoid delays due to numerous stops. Park-and-ride stations would be included to serve commuters from outlying areas. Existing rights of way, freeway or railroad, would be used wherever possible. The centers reflected existing areas of concentration but these would be developed at much higher densities.

Figure 6.1. The Concept Los Angeles Centers Plan (1974)



Source: Concept Los Angeles Plan, 1974.

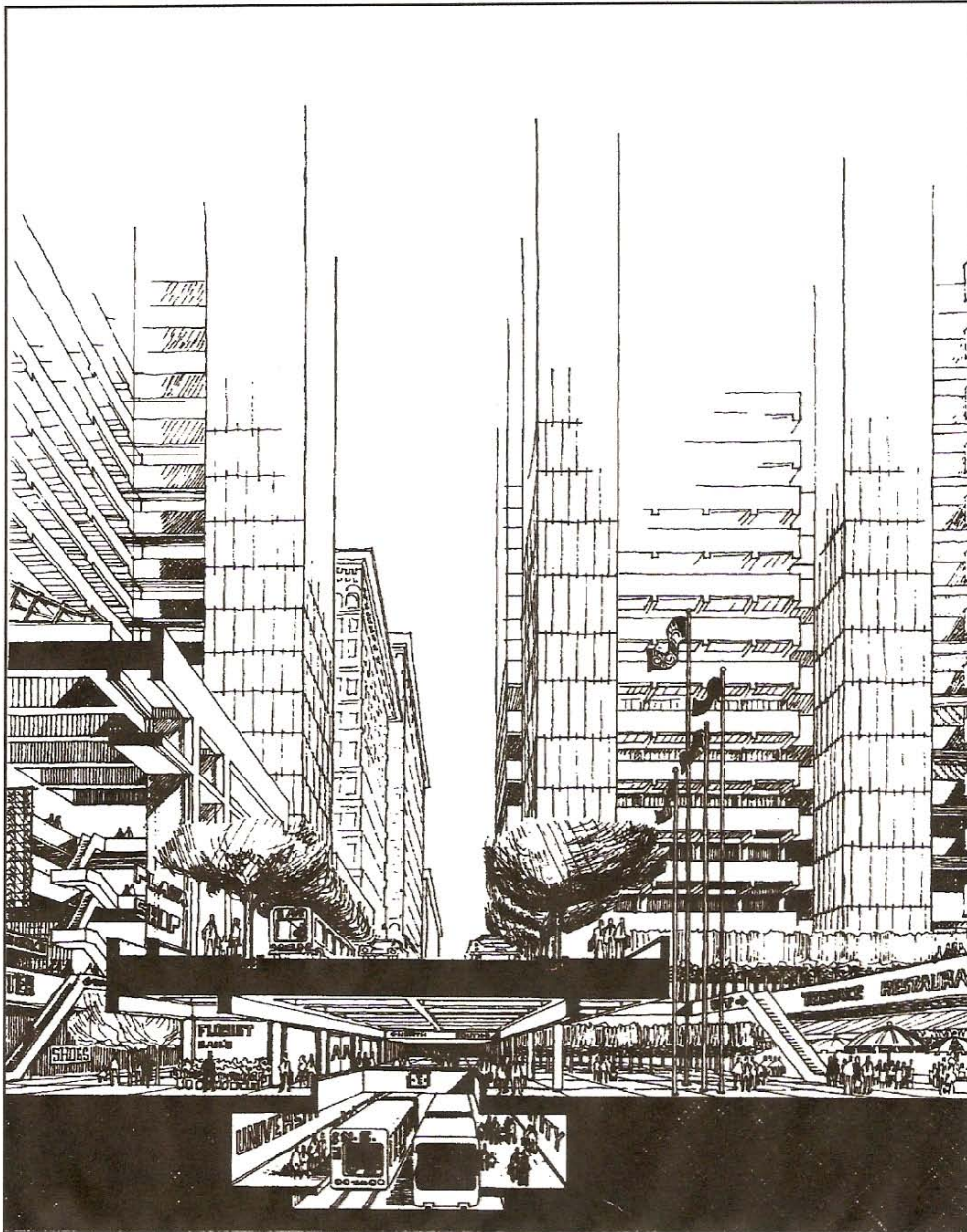
Each center would have a core with a 1/4 mile radius containing a rapid transit station, high-rise office structures, department stores, hotels, theaters, restaurants and government offices (see Figure 6.2). This was no ordinary plan:

The core will function on a three-dimensional basis, with controlled use of air rights. Schools, churches, government offices, public facilities and housing can be located on upper levels of commercial buildings.⁸

Centers could also contain satellite nodes separated from the core and connected to the rapid transit station by an auxiliary local transit system. The auxiliary transit system would be linked to a grade-separated pedestrian system in the core (see Figure 6.3).

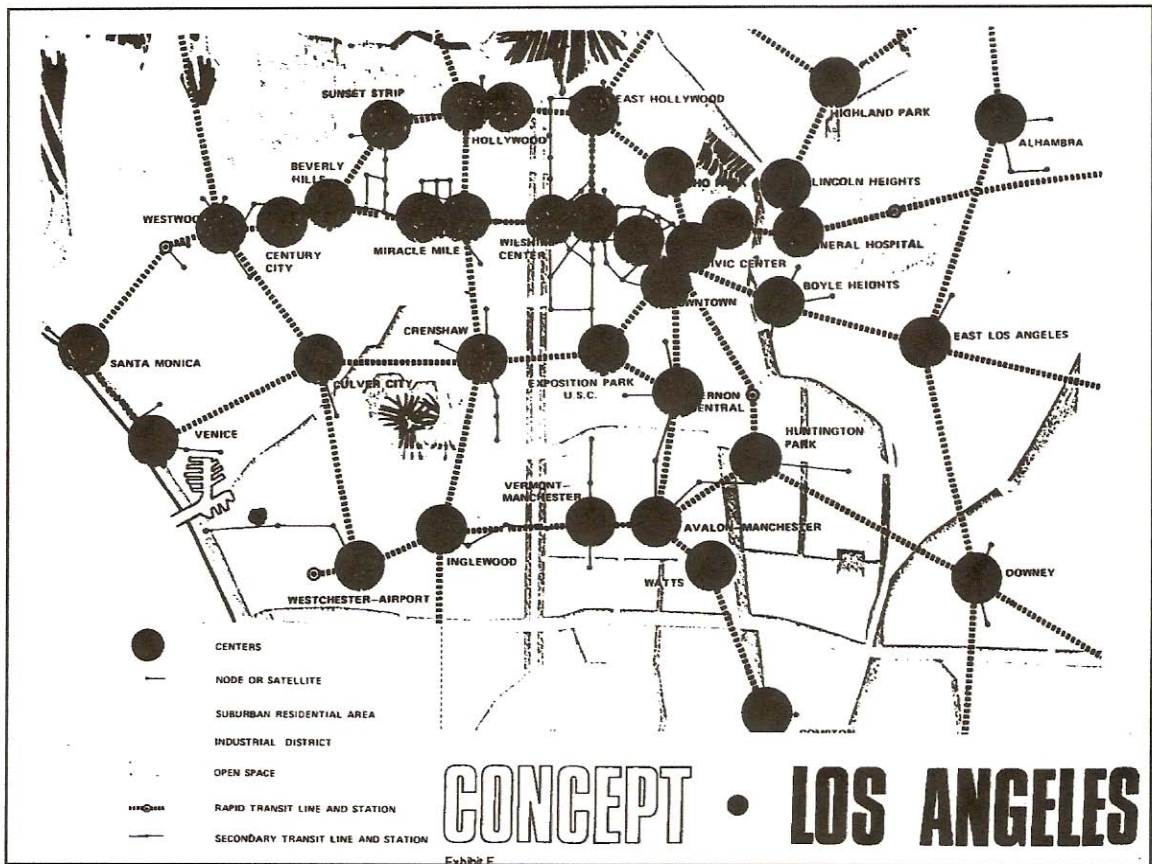
⁸City of Los Angeles, Concept Los Angeles: The Concept of the Los Angeles General Plan, 1974.

Figure 6.2. Typical Center Rail Station Envisioned in the Centers Plan



Source: Concept Los Angeles Plan, 1974.

Figure 6.3. Centers Plan, Transportation Elements



Source: Concept Los Angeles Plan, 1994.

Although the plan, as adopted, did not establish any sort of formal hierarchy between the centers, it was clear that the area known as the Regional Core, consisting of the Downtown, Wilshire, Miracle Mile, Hollywood and Beverly Hills Centers would contain higher densities of population and employment than elsewhere in the city (see Figure 6.4). This represented both a recognition of reality but also a nod to the political influence of downtown interests. By pushing some of the expected development to the outlying centers, though, the plan relieved some development pressure on the Regional Core area, while supporting outlying business and commercial interests and hopefully spreading traffic more evenly. Concentrating local retail and office development in these centers, would make it possible to maintain the city's characteristic low density residential development outside the centers. The regional rail component was a key element of the development strategy. According to the plan, while automobile travel would continue to dominate, over time increasing traffic congestion would divert more and more travelers onto the regional transit system.

Over the years, significant commercial development has in fact taken place according to the outlines of the Concept Los Angeles Plan, though by no means have all the centers developed as envisioned.⁹ There are, however, now major high-rise concentrations in Century City, Universal City, Warner Center, Long Beach, and

⁹One legacy of the Concept Los Angeles Plan remains in the city's 35 community planning areas, each with its own designated regional center. The city's 35 adopted community plans, one for each area, collectively constitute the Los Angeles General Plan.

Westwood. The plan was nevertheless significant for re-envisioning the entire region as a network of interconnected nodes, quite different in character from the hub-and-spoke model reflected in most of the earlier transit plans. Though traces of the old interurban systems are clearly visible, there are also many additional crosstown connections between the various centers.

The various rapid transit proposals that have emerged over the years since the Concept LA plan was put forward have reflected many of its basis assumptions, that most growth would still be concentrated, if not solely within the CBD, as least in the Regional Core, but also that many outlying areas would also experience substantial growth and would benefit from being linked through transit. While not tied directly to this planning effort, the RTD's next attempt to develop rail transit clearly advanced the first goal, while others outside the RTD were actively working to achieve the second, as described in the following chapter.

There were also plans underway by other agencies that would have a major impact on the RTD rail plans. Los Angeles city officials were determined to make the downtown CBD the center of centers. The City of Los Angeles Community Redevelopment Agency, or CRA, began working to finance a complete redevelopment of large portions of the downtown and other areas. Eventually the agency would manage a dozen separate project areas, but its initial efforts focused on turning Bunker Hill, near the Civic Center,

into a major high-rise office, retail, residential, and cultural complex designed to assert downtown Los Angeles' position in the region. Once an area of fashionable homes, then seedy tenements and hotels, its latest incarnation also serves as the city's emergence as a world city and leader in the Pacific Rim economy. The CRA's next major project involved a geographically much larger undertaking, revitalizing the entire Hollywood district. Large portions of this somewhat dilapidated area were targeted for housing rehabilitation, and in-fill housing construction, but the main goal was to restore the famous Hollywood strip with upscale retail shopping and entertainment venues. Both the downtown and Hollywood redevelopment projects proved highly controversial, but did achieve their goals of creating large business and tourist centers. While the CRA did not explicitly engage in any transportation planning for either of these areas their importance to the region's economy and politics dictated that any transit proposals would have to give special consideration to ways of linking the two.

New Beginnings

In 1978, Supervisor Baxter Ward, whose original *Sunset Coast* rail line had been rejected by voters, offered a scaled-back proposal for a 60-mile rail system now called the *Sunset Limited*, to be financed through property taxes. Due, however, to the passage of state Proposition 13 in June 1978, mandating a 2/3 vote for any increase in the property tax, Ward submitted only a ballot advisory measure on transit instead in the November election. Voters preferred a rail line from LAX to Union Station, over either a subway from Union Station down Wilshire, or an HOV guideway from LAX to the Convention Center.¹⁰ A year later, Ward reintroduced his full *South Coast Line* proposal before the Commission, recommending that this time the project be funded through benefit assessment districts. The Commission, though, voted against placing the issue on the November ballot, mainly due to opposition to the proposed financing plan.¹¹ It did, however, direct its staff to study possible additions to the Regional Transit Development Program (RTDP) and potential financing alternatives.

Meanwhile, the RTD having failed to interest federal officials in financing the 24-mile Long Beach line, returned to their original Wilshire plan. In 1978, the RTD had

¹⁰Greene (1985).

¹¹Letter from Edmund Russ, Chairman LACTC to Supervisor Hahn, August 8, 1979. The board rejected the transit assessment district proposal on the grounds that it (1) would discourage business growth, (2) was regressive, (3) would burden labor intensive industries, (4) did not adequately relate assessments to benefits, and (5) due to the lack of any countywide consensus.

selected the route of what would be the Wilshire Starter Line, a plan similar in many ways to the PE s 1906 subway proposal (see Chapter Four). To secure federal funds for the the RTD had prepared a Draft Alternatives Analysis/Environmental Impact Statement/ (Draft EIS), choosing as the locally preferred alternative (LPA) an 18.6 mile subway line linking downtown Los Angeles to Hollywood and the San Fernando Valley.¹² Basically a compromise between the original 1968 Wilshire Corridor proposal and the alternative Hollywood to downtown route and designated the Red Line, the LPA would consist of 16 stations in all served by 120 rail cars, divided into six car trains that would carry between 1,000 and 1,400 passengers. The LPA ran between Union Station and North Hollywood serving the Wilshire Corridor, the Fairfax area, Hollywood, and Studio City.¹³ As shown in Figure 6.5, the configuration, informally dubbed the wounded knee alignment, because of its backward bending shape, called for the subway to run under Broadway south from Union Station, and west along Wilshire Boulevard to Fairfax Boulevard.¹⁴ From there the project would turn north to Sunset Boulevard, proceed east

¹²U.S. Department of Transportation, Urban Mass Transportation Administration, Southern California Rapid Transit District, Draft Environmental Impact Statement (DEIS), Los Angeles Rail Rapid Transit Project (Metro Rail Project), hereinafter Draft Metro Rail EIS.

¹³The Draft EIS evaluated eleven mass transit alternatives designed to improve public transportation in and around the City of Los Angeles. The document was approved by UMTA in May 1979, and made available for review and public comment during the following month, and adopted in September of that year. The preferred rail alignment was considered superior to ten alternatives in terms of highest transit ridership, highest operating efficiency, greatest reduction in vehicular traffic and auto dependency, greatest travel time savings, most economic benefits, greatest accessibility, maximum air quality improvements, and largest energy savings.

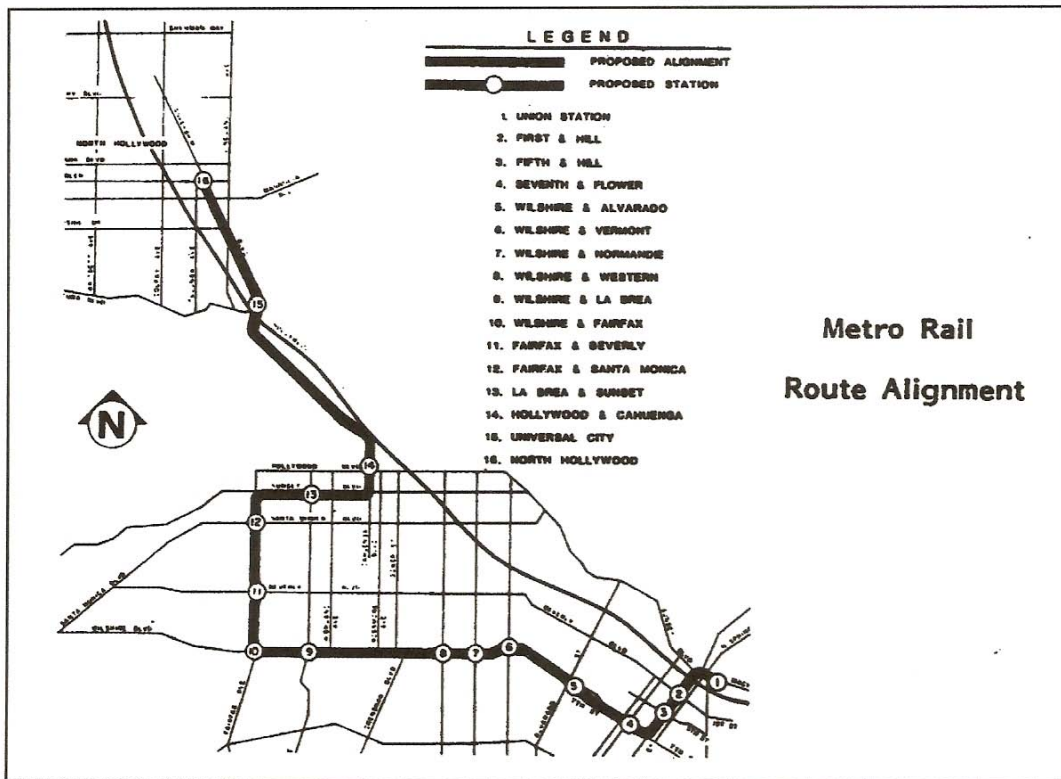
¹⁴The PE s 1906 subway proposal had a branch line to Hollywood from Fifth Street north on Highland Boulevard.

to Cahuenga Boulevard, and then continue northwestwards under the Santa Monica mountains to North Hollywood in the southeast San Fernando Valley, shadowing the route of the old PE San Fernando Valley route and beneath the very same Hollywood Freeway which had initially been planned to include above ground transit along its median (see Chapter Four).

The project was supported by the City of Los Angeles and the CRA, the downtown business community and business interests along Wilshire and Fairfax Boulevards (including CBS), but generally opposed by residents of the Hancock Park and Beverly-Fairfax District, a mainly elderly and orthodox Jewish community concerned that the project would spur development that would raise rents and jeopardize the supply of affordable housing.¹⁵ The Hollywood section clearly responded to political needs to serve the economically critical film and entertainment industry and link the politically-contentious San Fernando Valley closer to downtown.

¹⁵*Los Angeles Times*, Metro Rail's Financial Gap Could Change Nature of LA Neighborhoods, April, 8, 1984.

Figure 6.5. The Wilshire Corridor Starter Line Project (1980)



Source: RTD Draft Alternatives Analysis.

In early 1980, the LACTC staff concluded a review of possible financing mechanisms for the Wilshire Starter Line, Downtown People Mover (DPM) system, and Freeway Transit and Transit Systems Management (TSM) programs.¹⁶ The staff believed

¹⁶LACTC, Staff Report on Transit System and Financing Alternatives for Los Angeles County, January 23, 1980 [hereinafter LACTC Study].

these RTDP projects could be implemented without securing any additional funds beyond those already in hand. Commitments for the 20 percent local match for the Wilshire Starter Line had already been obtained, though staff criticized the RTD's lack of progress in implementation. As for the DPM, preliminary engineering was completed, financing arranged, and final design work scheduled to commence.¹⁷

The staff also suggested modifying the RTDP to emphasize regional rail transit. The most extensive alternative would be to provide rail along all five routes identified in the San Fernando Valley-Long Beach Corridor and to institute rail lines instead of busways on the San Bernardino and Century Freeways (see Figure 6.6). The full list of system components, also shown below, consisted of the following:

¹⁷LACTC, Memorandum from Executive Director Premo to Board, January 22, 1980.

<u>Segment</u>	<u>Length</u>
Wilshire Starter Line	18 miles
El Monte Busway Conversion	11 miles
South Central Los Angeles Line	11 miles
Century Freeway Line	17 miles
Long Beach Line	12 miles
San Fernando Valley Line	8 miles
Wilshire Line Extension to Westwood	<u>5 miles</u>
Total	82 miles

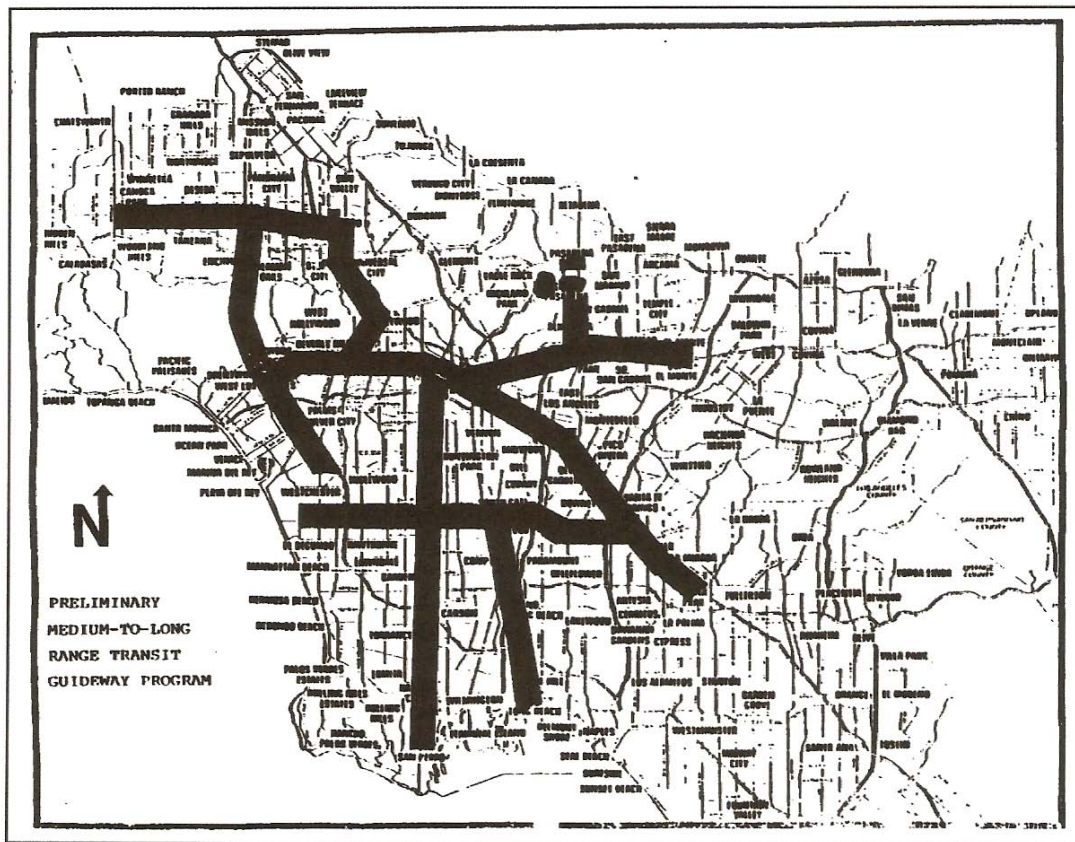
The estimated cost to complete all the recommended improvements was just over \$2 billion in 1980 dollars.¹⁸ Other than the Wilshire Starter Line, the only other projects considered cost justified were the Wilshire Line extension to Westwood, the South Central Line, and the El Monte Busway Conversion. However, all of the lines were recommended because they were within the San Fernando-Long Beach study corridor which had been endorsed by state and local agencies, and staff concluded the remaining lines could be implemented at relatively low cost. In addition to this urban rail system, the Commission staff also endorsed a modified version of Supervisor Ward's *South Coast Line* commuter rail proposal, that would eventually become the basis for a commuter rail

¹⁸Equivalent to \$4.6 billion in 2004 dollars.

line known as *Metrolink*.¹⁹

¹⁹The proposed commuter rail line consisted of 224 miles of rail rapid transit, an optional 5.3 miles of light rail line and additional feeder bus service requiring 200 new buses about a 7 percent increase. The cost of the entire program was estimated at just over \$7 billion in 1980 dollars or over \$20 billion in escalated dollars. The rationale, as set forth in the study, was that an extensive rapid transit system would be needed for the region to economically survive in future years of limited and expensive energy supplies. LACTC Study, p. 28.

Figure 6.6. Guideway Plan



Source: LACTC, Report on Transit System and Financing Alternatives for Los Angeles County, 1980

The report acknowledged that no previous study of transit alternatives had justified a rail or other fixed guideway systems on the magnitude of the current proposals. Still, it concluded that, using state and federal matching funds, it would be possible to construct some of the proposed rail projects including the Harbor, Century, and El Monte

busway conversions, and the San Fernando Valley rail extension. It would not, however, be possible to complete the entire system without additional funding. And although the study identified an immediate and long term need to significantly increase levels of bus service the authors asserted that the agency would not be able to release additional operating funds for rail or expanded bus service until rail construction was completed.²⁰

The key to the project was finding an acceptable funding mechanism to leverage outside resources. Under state law (AB 1246) creating the agency in 1976, the LACTC could, subject to voter approval, impose a 0.5% retail transactions and use tax, commonly called a sales tax, in the incorporated and unincorporated areas of the county for public transit purposes.²¹ Staff determined that an increase from 6 to 6½ percent in the existing sale tax was the most desirable financing alternative based on the amount of funds it would provide and the flexibility it would offer in the use of those funds. A ½-cent sales tax would raise approximately \$210 million annually in 1980 dollars.²² A total of \$100 million could be devoted to rapid transit, \$90 million to bus and community-level transit, and \$20 million to miscellaneous transit programs. This would provide local match funding for the entire 82-mile urban rail transit program which, it was estimated, could be completed in 25 to 30 years.

²⁰LACTC Study, pages 29-30.

²¹Public Utilities Code, Div. 12, Ch. 4, Art. 6, § 130350 et seq. See also, Revenue and Taxation Code, Part 1.6, Div. 2, § 7251 et seq.

²²Equivalent to \$481 million in 2004 dollars.

Proposition A

The LACTC Board debated the sales tax proposal. Initially, the Commission proposed that no less than 50 percent of the funds generated would be set aside for mass transit guideway construction²³ and that at least 40 percent would be used to improve and expand the existing county bus system.²⁴ A series of community public hearings on the proposal in late July 1980 were scheduled to address whether specific guideway modes should be included on the ballot and whether a portion of the tax revenues should be returned to local governments for transit improvements.

In response to comments at the public hearing, the Commission members agreed that the funding spread for the ½ cent sales tax increase would be changed to:

50 percent for regional rapid transit

25 percent for regional bus service and ridesharing, and

25 percent returned to local governments for transportation purposes.

²³The longer term projects involved establishing an exclusive transit guideway system in defined corridors to supplement the El Monte busway and the Wilshire Starter Line. In total, 145 miles of fixed guideway would be added over a 20 to 25 year period.

²⁴The remainder would be used to support a number of projects to relieve overcrowding, expand freeway oriented bus service, and improve local service in unserved or under-served areas, including carpooling, park-and-ride lots, bus turn-outs, transit stations, and improved traffic signal synchronization.

The Commission also agreed with staff suggestions not to identify particular transit modes for specific corridors in the ballot measure. Rather, the term rapid transit could signify that rail, busways, HOV lanes, or some other transit technologies would be developed. Finally the Commission included an optional sunset clause that would remove a portion of the sales tax once the guideway portion of the program was completed.²⁵

Initial public reaction to the proposed tax increase was less than enthusiastic. Finding a compromise formula that would appeal both to downtown boosters and suburban interests was proving to be as elusive as ever. Among its shortcomings, the proposal failed to identify how existing bus service would be improved. County Supervisor Kenneth Hahn, a long time supporter of improving local transit service whose largely minority Second District was located in the southwestern portion of Los Angeles County, proposed an alternative.²⁶ He characterized his proposal as a bold new

²⁵LACTC, Minutes of August 6, 1980 Board Meeting.

²⁶Hahn's district and included the cities of Carson, Culver City, Gardena, Hawthorne, Inglewood, Lawndale, and Lynwood in addition to the Baldwin Hills, Florence-Graham, Westmont and Willowbrook neighborhoods of Los Angeles County. It also covered the areas of the City of Los Angeles generally known as South Central and Watts. With only 4 percent of the total area of the county and 20 percent of the population, the district had the highest population densities of any of the supervisorial districts and a median family income 21 percent below the county average. Almost twice as many (13.4%) of the district's residents commuted to work using public transit than the countywide average (7%). A total of 45 percent of the RTD's daily boardings occurred within the district. RTD, Needs Assessment for the Second Supervisorial District of Los Angeles County, October 1983.

approach to financing rapid transit before it's too late.²⁷ The plan was modeled on one approved in 1971 by Atlanta voters for a one-cent sales tax that guaranteed a 15-cent bus fare for seven years and also funded a new transit system. Hahn argued that Los Angeles did not receive its fair share of federal transportation funds since Washington favored communities that raised local funds through transit taxes. Evoking the heroic shade of William Mulholland, who had brought water from the Owens Valley to the people of Los Angeles, Hahn urged the Commission to move forward and build a great rail rapid service and give a great subsidy to the [bus] riders rather than forcing them to endure fare increases every year. His prepared remarks waxed rather poetic:

In the past, there have been great men of vision who had enough courage to go up 200 miles north and bring the water to Los Angeles. These were great men who have built a great municipal water and power department. Now we, as a commission, have been charged by the State Legislature, not the city council, not the board of supervisors, and not the 81 mayors, but this commission as a political jurisdiction of California with providing the leadership for transportation for our people: to move the people and commodities around safely and quickly and conveniently.²⁸

²⁷Press Release from the Office of Los Angeles County Supervisor Kenneth Hahn, August 22, 1980.

²⁸Board of Supervisors Minutes, August 20, 1980. The obvious reference is to William Mulholland who directed the effort to construct the California Aqueduct which brought water from the Owens Valley in the Sierra foothills to Los Angeles in the 1920s and made large-scale urban growth in the regional possible.

(continued...)

Hahn proposed to guarantee a 50 cent fare on RTD buses anywhere in the county for five years, with a 10 cent transfer, and \$4.00 monthly passes for seniors and students. The subsidy would cost \$75 million a year, or about 1/3 of the revenue from the sales tax. The remaining 2/3 would go for bus operations and rail rapid transit.

Several of Hahn's fellow Commissioners objected to how the bus subsidy would affect the level of funds available for the regional rail system. The cost of the subsidy would increase about 4 to 5 percent each year due to inflation, with a consequent reduction in the amount available for rail transit. By the fifth year only 21 percent of the funds would be left for rail, even less if the RTD failed to improve efficiency.²⁹ Also, there was no guarantee that these funds would be returned to the rail project after five years since public pressure might prevent any fare increase at that time. There was even some discussion about delaying the issue until a later election, but Hahn urged quick action on the ballot proposal so that the city could begin receiving federal funds.

The motion to place the sales tax measure on the November ballot passed on a 6-5 vote, but only after Mayor Bradley's representative changed his vote. Bradley was apparently not anxious to support the measure, but did not want to be seen as responsible

²⁸(...continued)

When the project was completed, Mulholland announced to an eager public at the dedication ceremonies, simply "There it is. Take it."

²⁹There was concern that subsidizing the RTD would reduce any incentive to improve operational efficiency.

for its defeat if the vote by the rest of the Commission was close.³⁰

Once the Commission had voted to place a sales tax on the ballot, members turned to whether the funds to be collected should be allocated according to the initial proposal agreed to or the Hahn alternative. Commissioner Russ, a local mayor and representative of the cities, announced he would withdraw his opposition and support the Hahn proposal. County Supervisors Ward and Schabaraum, with Commissioner Cox, however, declared their opposition. Commissioner Szabo, recognizing the need for a broad constituency urged support. But, there was still concern that over the five year period the bus subsidy could increase enough to entirely eliminate the promised 25 percent local return, which would clearly cost suburban support. Commissioner Cox suggested amending the proposal to build in a 35 percent floor for rail rapid transit (less than the initial 50 percent for regional transit but committed solely to rail construction). The next 25 percent would go to the local cities and the remainder could be used for other purposes, include fare reduction, to expand bus service or accelerate construction of the rail rapid transit system. This would allay some of the fear over RTD mismanagement since this proposal would effectively limit the bus subsidy to a maximum of 40 percent of the tax revenues.

Commissioner Szabo, however, objected that no funds would be left for

³⁰Richmond (2005).

improvements to the regional bus systems and service would probably need to be cut. Commissioner Geoghegan, an alternate for County Supervisor Edelman, pointed out that the average bus trip was only three miles and therefore most bus riders would not benefit from the new rail service. Supervisor Ward, the staunchest rail advocate on the Commission, argued that anything less than a 50 percent commitment to rail transit would lessen chances for voter approval, but he reluctantly agreed to support the 35 percent figure. The Governor's representative to the Board, Mr. Heckerath, summarized how different the emerging proposal was from the initial arrangement:

My understanding, when we first discussed the ballot measure, was that we were looking for a measure that (1) was not modal specific, and (2) that we wanted to implement it on the basis of addressing the needs in each corridor at the time that the funding would become available for implementation on a corridor-by-corridor basis. In my best judgment, rail is an option; light rail is an option; high-occupancy vehicle, exclusive lanes are options; all servicing the regional requirement for public transit in terms of line haul supplemented by our definition of regional transit which in effect is an enhancement of line haul system on arterials as well as freeways. I would like to see us go back to that original concept. It

seems we have lost it.³¹

Commissioner Remy, Mayor Bradley's representative, also urged a return to the original 50/25/25 split proposal. Supervisor Hahn indicated he would be willing to lock in the fare reduction for only three years, after that 35 percent would automatically go to the rail project and the RTD could come back to the Board if they needed more money to maintain their fares beginning in the fourth year. Geoghegan still worried that there would not be enough funds left for the RTD to expand local service, even though there would be more riders as a result of the fare reduction. Nevertheless, the elements of a compromise were beginning to take shape. A revised ordinance was passed on a 7-4 vote.³² Only the three representatives from the City of Los Angeles and Supervisor Schabarum opposed the measure. Bradley was committed to the RTD's downtown Metro Rail project and felt that this new proposal might threaten it. The Board also approved the wording for the ballot measure for the November general election.³³

The final proposal adopted by the Commission had three main elements -- a three year reduction in bus fares countywide, improvement of local public transit service, and

³¹LACTC, Minutes of August 20, 1980 Board meeting.

³²Ordinance No. 16, An Ordinance Establishing a Retail Transactions and Use Tax in the County of Los Angeles for Public Transit Purposes, August 20, 1980.

³³LACTC Resolution Calling Special Election Proposing a Retail Transactions and Use Tax for Public Transit Purposes be Submitted to the Voters for the County at the Special Election and Ordering the Consolidation of the Special Election with the November General Election, August 20, 1980.

construction and operation of a rail rapid transit system -- all designed to appeal to geographically diverse constituencies.³⁴ To appease suburban voters, the ordinance provided that the first 25 percent of the tax receipts would go to local communities (25% Local Return). This local return portion could be used to contract for services with the RTD or other municipal or private bus operators. It could also fund park-and-ride lots, transit stations or other transit facilities, but the ordinance prohibited jurisdictions from duplicating existing transit service. The remaining 75 percent would be used to fund fare reductions and future transit projects.

Unlike the prior defeated proposals that had only dealt with new rail construction, Prop A provided for both bus and rail improvements. To win backing from current transit patrons and central city residents, RTD base cash bus fares would be reduced to 50 cents for a period of three years, with a 10 cent unlimited use transfer. The elderly, handicapped persons, and students would ride for 20 cents. A basic monthly transit pass would be sold for \$20.00; \$4.00 for the elderly, handicapped, and student riders. The subsidy for this Fare Reduction Program was estimated to cost \$80 million in the first year, or about 36 percent of the total revenue from the tax. That amount could possibly increase in subsequent years as costs increased, but only for three years, minimizing concerns over subsidizing alleged RTD mismanagement.

³⁴MTA, Summary of Ballot Measure Adopted by the Los Angeles County Transportation Commission at its Meeting of August 20, 1980.

For three years, Proposition A revenues left after deductions for the 25 % Local Return and fare reductions would be available for rail projects.³⁵ After the initial three year period, a guaranteed thirty-five percent of the funds collected were to be set aside for rail construction and operation (35% Rail Funds).³⁶ The remaining funds, equal to 40 percent of all sales tax revenues, could be used either to subsidize bus operations or to accelerate rail transit construction (40% Discretionary Funds). Finally, the optional sunset clause was removed on a 6-5 vote, making the sales tax boost permanent.

So that voters would know exactly where their tax money was going, the ballot measure, identified as Proposition A, was accompanied by a map that indicated wide corridors crisscrossing nearly all of Los Angeles county,³⁷ and the official written analysis specifically stated that the transit system would conform substantially with the map and serve a number of communities and areas, including the San Fernando Valley, West Los Angeles, South Central Los Angeles/Long Beach, the South Bay, the Century Freeway Corridor, the Santa Ana Freeway Corridor and the San Gabriel Valley. The width of the corridors gave the impression that nearly all areas of the county would be near to a rail

³⁵The LACTC estimated that an average of 34 percent of the tax revenues would be available for the first three years for these purposes.

³⁶Supervisor Hahn apparently believed that these funds would be devoted to light rail transit systems such as the Long Beach and Century Freeway lines and that nearly all of the Metro Rail heavy rail project would be funded by the federal government. Statement by Supervisor Kenneth Hahn, July 9, 1986.

³⁷The corridors were Century, El Monte, Exposition, Glendale, Harbor, Pasadena, Route 2, San Fernando (E/W), San Fernando (N/S), Santa Ana, South Bay/Harbor/Long Beach, West Los Angeles (N/S), and Wilshire West.

line. In the final map version, the areas shown to receive rail service were expanded beyond the original guideway proposal to include Sylmar in the North County area, Long Beach in the South Bay area, and the City of Glendale, presumably to increase political support (see Figure 6.7). The selected corridors generally followed the existing freeway system; specific route alignments and station locations would be determined later. The entire proposed system was 180 miles long, including the 29-mile Wilshire Starter Line, and was projected to take 35 to 40 years to complete, with construction to begin in 3 to 5 years. Excluding the Wilshire Line (which had separate funding), the entire project was estimated to cost \$3.6 billion in 1980 dollars.³⁸

The official ballot argument in favor of Proposition A, authored by Supervisor Hahn and others, pointed to the recent rise in gasoline prices and Mideast instability, as well as the desire to capture a larger share of federal and state transportation funds. Supporters noted that Los Angeles County was the only urban area of its size that did not have a rail rapid transit system. Approval of the measure would, supporters argued, conserve energy, reduce smog and congestion, create jobs, and improve a stagnant economy.³⁹ Opponents, including County Supervisor and LACTC Board Chairman Pete Schabarum, argued that there were no real assurances that any of the proposed rail lines

³⁸MTA Proposition A Fact Sheet. Equivalent to \$8.3 billion in 2004 dollars.

³⁹Argument in Favor of Proposition A, November 4, 1980 Election pamphlet.

would actually be built or that bus service would be improved.⁴⁰ They also contended that the public was already heavily taxed to pay for transportation through gasoline taxes. Finally, they noted that Los Angeles had already received millions of federal dollars for the Century Freeway project, which would contain exclusive bus lanes, as well as funding for a downtown people mover system and the Wilshire subway.⁴¹

Advertisements in favor of Proposition A focused on the need for congestion relief. One ad declared Los Angeles County Desperately Needs Better Transit Now above a picture of bumper-to-bumper freeway traffic.⁴² Other election material stressed the three elements to the proposal – the reduced bus fares, local transit improvements, and rail rapid transit. Proposition A was endorsed by the *Times* and the *Herald Examiner*. The papers' editors also emphasized the guaranteed reduced fares, expanded bus service, and the prospect of obtaining additional federal funds to construct the rapid transit system.⁴³

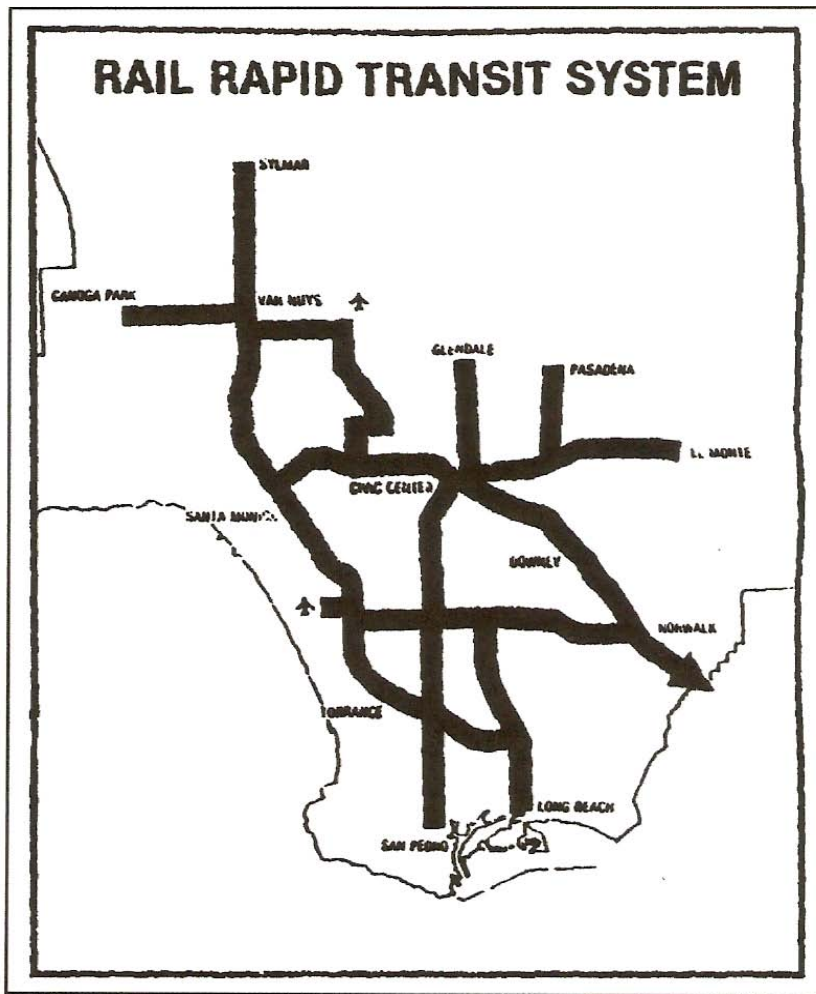
⁴⁰Rebuttal to Argument in Favor of Proposition A, November 4, 1980 Election pamphlet.

⁴¹Rebuttal to Argument in Favor of Proposition A, November 4, 1980 Election pamphlet.

⁴²*Rafu Shimpō*, October 31, 1980, Yes on A, paid for by Citizens for Effective Public Transit.

⁴³*Los Angeles Times*, Transit: Yes on A, October 26, 1980, Part VII, 4; *Los Angeles Herald Examiner*, This may be most important question you can answer, Yes -- please -- on A, October 21, 1980, A14

Figure 6.7. Proposition A Rail Rapid Transit System



Source: Proposition A Ballot Measure, November 1980.

Nevertheless, the odds of passage were not considered good. But, in a climate of worsening traffic congestion, recent oil embargos and gasoline rationing, Proposition A was approved by county voters with 54.2 percent of the vote.⁴⁴ Over 2/3 of the votes in Supervisor Hahn's largely minority district voted in favor of the measure, compared to only 44.1 percent of those in Supervisor Scharbarum's district. Table 6.1 reports the vote by county supervisorial districts.

Table 6.1. Proposition A Vote by Supervisorial District

District	Supervisor	Percent in Favor
First	Pete Scharbarum	44.1%
Second	Kenneth Hahn	67.9%
Third	Yvonne Burke	60.6%
Fourth	Ed Edelman	53.3%
Fifth	Baxter Ward	50.2%
All		50.2%

The funding compromise embodied in Proposition A helped to improve transit accessibility in the short run by providing a temporary fare reduction, but it also locked in

⁴⁴McCullough (1996).

over one-third of future revenues for rail construction. There was nothing in the proposal preventing the remaining funds from being used to improve bus service, but as the costs of the rail project began to escalate the LACTC took the position that the fare reduction was only guaranteed for three years and that all Prop A funds other than the 25% Local Return were intended to support rail development. Nonetheless, the fare reduction program had an immediate impact and proved that lower fares and better service could attract substantial numbers of riders. Unfortunately, when the three year trial period was up, rail proponents immediately seized on the funds to support an ever growing list of rail transit construction projects, leaving the bus providers with little choice but to raise fares and reduce service.

Fare Reduction Program

Between 1970 and 1990 the population of Los Angeles County increased by 27 percent, from 7.1 million to 8.9 million. Over the same period, ridership on the RTD doubled from 189 million boardings annually to around 400 million (see Figure 6.8). During the gasoline crisis of 1974/75 transit ridership increased by 50 percent, and after a slight decline in 1976, continued to increase through 1980. RTD operating costs, however, were also steadily increasing, limiting the agency's ability to expand service. Critics blamed the situation on generous union contracts that provided for higher wages

and benefits than all other Southern California bus operators. Annual transit ridership on the RTD system that peaked at 397 million riders in FY 1980 with a base fare of 55 cents, began to decline afterward as the agency raised fares first to 65 cents in FY 1981, and again to 85 cents in FY 1982. The fare increases along with the 1980-81 recession contributed to the sharp decline in patronage.

When the Proposition A Fare Reduction Program was finally initiated in July 1982,⁴⁵ it proved wildly successful; bus ridership increased over 42 percent, to 497.2 million annual riders by FY 1985.⁴⁶ Ridership on most other transit providers in the county was also up.⁴⁷ The base cash fare for the RTD was cut from 85 to 50 cents and the various pass prices were also lowered, as shown in Table 6.2. The unanticipated increases in ridership from the fare reductions also created a need for more buses to accommodate the additional riders. Within the first year, with the 50 cent fare, revenue

⁴⁵The Planning Group, Inc., An Assessment of the Social, Economic, Energy, and Environmental Impacts of RTD's Proposed Fare Change and Service Reduction Policies for Fiscal 1982. May 1981. Due to certain legal challenges, Proposition A's mandated bus fare reduction program was delayed, prompting the RTD to propose raising fares from 85 cents to \$1.00 and instituting \$25 million worth of service reductions in order to close a \$30 million operating deficit. In April 1982, the California Supreme Court validated Proposition A, eliminating the need for these measures.

⁴⁶It is difficult to assess the exact effect of the fare reduction on bus ridership, in part because during the two years of litigation over Proposition A, the RTD revamped its service to adhere more closely to demand-based schedules, as indicated by the shift in the ratio of revenue hours to revenue miles which increased 17.3% the first year, 11.9% second year and 6.8% the third year, even without further fare changes.

⁴⁷LACTC, memo to Finance Review Committee, February 19, 1985. Ridership changes for the other providers were Long Beach (+26%), Gardena (+4%), Torrance (+15%), Culver City (+6%), Montebello (-11%), Arcadia (+319%) and La Mirada (+3%).

service hours increased 10.3% from 1980 levels to meet the increased demand.⁴⁸ Annual revenue hours increased from 6,599,144 to 7,079,213, surpassing the 6,883,000 hour cap in service hours agreed to between the RTD and LACTC in order to hold down operating costs.⁴⁹ The RTD agreed to maintain additional service hours through June 1985, when the bus fare subsidy would technically run out.⁵⁰ The agency also sought approval to add 40 additional buses to reduce overcrowding on the heaviest use lines, however, the LACTC reduced the program to 32 buses.⁵¹ Off-peak periods also experienced increases which helped to spread costs more evenly thereby improving system efficiency some. Costs per passenger actually fell from \$1.03 a ride to less than \$0.90, despite the additional service costs.

It is somewhat ironic that while the rail program that was intended to increase transit ridership in Los Angeles, it was the fare reduction proposal, which was added to the ballot measure primarily to garner political support for the sale tax increase, that

⁴⁸According to the MTA, service hours could have grown even more had the LACTC approved increased service coverage but the Board chose not to do so because it would be have been politically difficult to then reduce service after three years when fares returned to previous levels.

⁴⁹RTD, Evaluation of Cost Savings Opportunities Identified in Memorandum of Understanding with the Los Angeles County Transportation Commission, December 1983. The Memorandum of Understanding designed to reduce bus operations costs. The LACTC directed the RTD to investigate ways to improve service and reduce costs including service modifications, line regulation, and subcontracting or privatizing unprofitable lines.

⁵⁰Letter from Kenneth Hahn to RTD Board, LACTC B oard, July 20, 1983; Kenneth Hahn Press Release, March 28, 1984.

⁵¹Supervisor Hahn urged that the full 75 percent of the Prop. A funds available to the LACTC be spent to relieve overcrowding .

resulted in bringing a larger increase in rider to the system than even rail was suppose to provide. But though the increased number of riders resulted in a lower cost per rider carried, it also meant an increase in overall operating costs which was seen as a problem by the LACTC, even though boosting patronage had presumably been the goal to begin with. That certainly raises questions as to whether the LACTC, dominated by the county and suburban interests, wasn t more interested in shifting transportation services away from existing riders to their own constituencies. Not surprising, the LACTC Board grew increasingly critical of the RTD s Wilshire subway, as a project that would only serve downtown interests.

Table 6.2. RTD Monthly Pass Prices, 1982-1989

	FY 82	FY 83-85	FY 86-88	FY 89
Base	\$34	\$20	\$32	\$42
E/D	\$7.50	\$4	\$7	\$10
K-12	\$22	\$4	\$12	\$18
College	\$20	\$4	\$15	\$25

Source: RTD, Agenda Memo, Historical Fare Structures and Ridership\Revenue Trends, June 3, 1993.

The fare reduction was designed to benefit bus riders and garner support for Proposition A by promising improved bus service at a reduced price. Supervisor Hahn

anticipated that the LACTC and the County would continue to support reduced bus fares even after the initial three year period. Indeed, the language of Measure A suggests that three years was merely the minimum time period for the fare reduction, not necessarily a maximum and that Prop A funds could continue to be used to subsidize bus fares.⁵² The LACTC, however took the position that the main purpose of Proposition A was to finance construction of a regional rail system and that a *temporary* three year Fare Reduction Program was all that was agreed to, as the full amount of Prop A funds would not be needed during the initial rail planning stage, but that they were intended to fully support rail construction after that time period. At the end of the third year of the program (June 30, 1985), the Board voted to return base bus fares to \$0.85. Elderly and disabled patrons could ride for 40 cents, though, and transfers were still sold for 10 cents a piece. Pass prices were also increased to near 1982 levels as shown in Table 6.2. With the fare increases ridership quickly declined (though it remained above that prior to the fare reductions). The District began to experience financial problems as operating revenues fell due to a steady decline in the number of bus passengers.

Supervisor Hahn unsuccessfully urged the City of Los Angeles to contribute its

⁵²The language of Ordinance No. 16 simply stated that after the third year from the operative date of the ordinance, revenues remaining after the 25% Local Component and the 35% System Component (reserved for constructing the rail transit system), would be allocated to the Commission for public transit purposes. Section I, Section 5 (c)2.c.

surplus Prop. A 25% Local Return funds to extend the reduced fares an additional year.⁵³

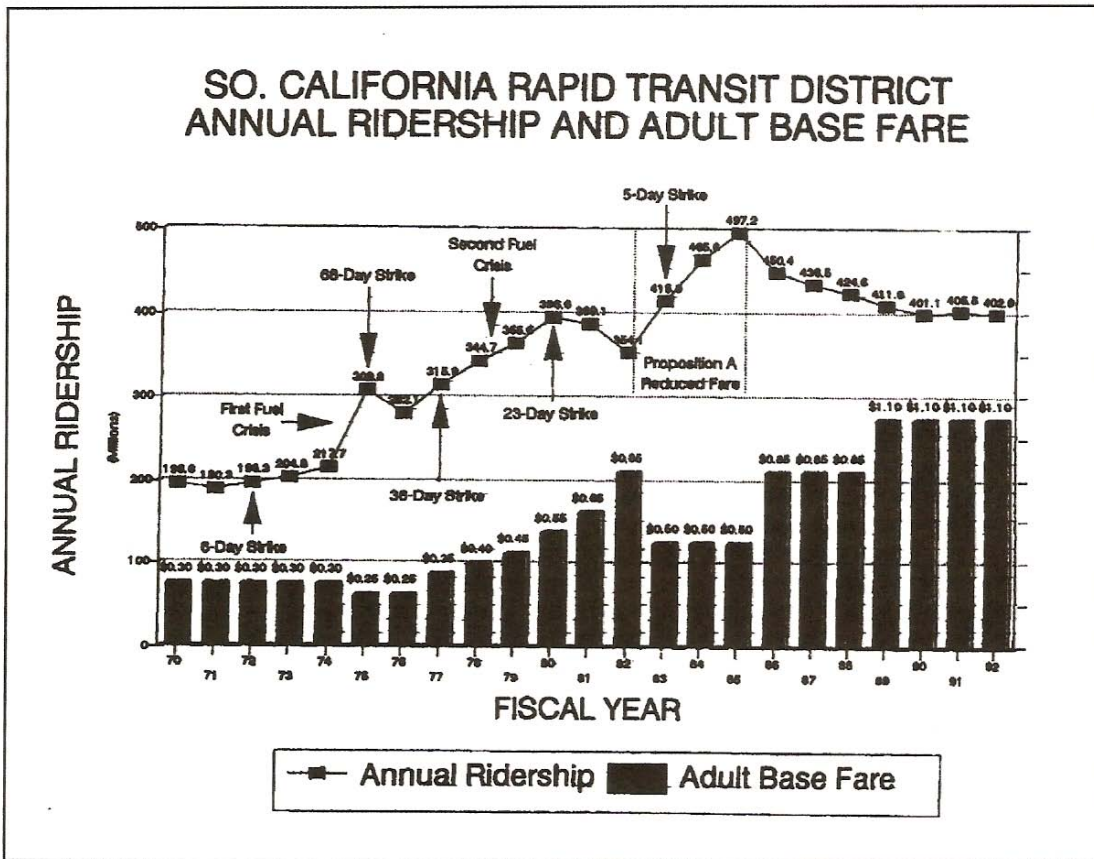
The City, however, preferred to keep its funds in reserve to cover any potential cost overruns in the Metro Rail project.⁵⁴ The RTD too, encouraged local municipalities to consider using their Proposition A 25% Local Return funds to subsidize existing bus operations, rather than to expand local service.⁵⁵

⁵³Letter to Mayor Bradley from Kenneth Hahn, May 31, 1985.

⁵⁴Letter to Kenneth Hahn, from Mayor Bradley, November 5, 1986.

⁵⁵At the request of Supervisor Hahn's *District Two Proposition A Local Return Task Force*, the RTD conducted a needs assessment in the Second Supervisorial District to determine what transit-related projects could be funded with the 25% Local Return portion of Proposition A Funds to which the County was entitled. The study found that while 65 new buses were operating in the district, overcrowding problems still occurred during peak service hours. Eight lines in the district were above average in crowding. One of the most crowded, Line 204 (Vermont Ave.), averaged 57,800 boardings per day. RTD, Needs Assessment for the Second Supervisorial District of Los Angeles County, October 1983.

Figure 6.8. Reduced Fare Program



Source: MTA. A Look at the Los Angeles County Metropolitan Transportation Authority, January 1994.

Major Transit Projects

The end of the Fare Reduction Program freed up a significant amount of revenue that the LACTC chose to commit to its ambitious rail construction program.⁵⁶ Adding to Proposition A funds, the LACTC began securing federal and state transit funds to use for rail construction. In addition to the underground Metro Rail project, which would now be called the Red Line, the LACTC initiated planning for two longer, primarily above-ground light rail projects, known as the Blue Line and Green Line.

Red Line (Metro Rail)

As DOT regulations required rail proposals to be funded in stages, the initial 8.8-mile portion of the Red Line project, consisting of the first 10 planned stations, was termed the Minimum Operable Segment (MOS) and represented a financially constrained but otherwise feasible alternative. Although the RTD transit planners did not consider remaining portions to be as financially justified as the MOS based on ridership projections, there were nonetheless included as part of the overall project.

⁵⁶With the passage of Proposition A, the LACTC became responsible for building the proposed rail transit system, which included managing the Metro Rail project, though by agreement the RTD would operate the completed system.

Within the CBD, four stations were planned to connect important downtown locations, including Union Station, the Civic Center, Bunker Hill, and the shopping district. Eventually, the mothballed Angel s Flight funicular railway would be uncrated and reconstructed near its original site beside the new Fifth Street and Hill station, providing both a highly symbolic and practical link between the new subway and the city s emerging center of international finance capital.⁵⁷ From there it would proceed along Wilshire Boulevard, connecting MacArthur Park, the Miracle Mile district, and the Los Angeles County Museum of Art (LACMA) at Fairfax Boulevard. Beyond the MOS, the remaining stations would serve the designated regional centers of Hollywood, Universal City, and North Hollywood.

According to the environmental documentation, the project had been selected because the Regional Core was the most densely populated portion of Los Angeles and because the CBD, Westlake, the Wilshire area, and Hollywood were expected to experience substantial growth in population and employment.⁵⁸ The freeways serving the

⁵⁷Short of walking up a steep hill, there is no other easy way for Metro Rail commuters to reach the corporate offices, retail services, and cultural facilities at the top of Bunker Hill.

⁵⁸The EIS warned that failure to build the Metro Rail project would result in a worsening of freeway congestion. The RTD estimated that without the project, traffic in the Regional Core would increase from 14.2 to 17.8 million vehicle miles per day by the year 2000. The EIS summary stressed the need for a subway system in the Regional Core:

By the year 2000, the most intensely developed section, known as the Regional Core, will house approximately one million persons, an increase of nearly 25 percent from 1980. The implications of this level of development for travel are significant. Already congested roadways will have to accommodate a projected travel demand increase in the

(continued ...)

Regional Core were considered extremely congested and expected to worsen. Road projects that could have relieved some of the traffic, such as the Route 2 freeway through Hollywood (the proposed site of a planned major city redevelopment project), had been canceled due to neighborhood opposition.⁵⁹ The rail project was designed to relieve congestion in the downtown area by providing an alternative to bus service in the heavily traveled Wilshire Corridor, and thus improve the operation of the existing bus system. The subway option was selected over alternative ground and aerial busway proposals for its ability to satisfy projected travel needs and its capacity to handle increased public travel during energy shortages.⁶⁰

The initial segment along Wilshire was projected to carry the bulk of the riders. Indeed, RTD transit engineers concluded that this MOS segment was the only portion of the proposed system that would be financially justified based on expected ridership projections. Average daily ridership for the entire LPA was forecast to be 364,000

⁵⁸(...continued)

Regional Core of 25 percent by the year 2000, while bus service, already strained to capacity along certain corridors, is not expected to improve significantly. Thus, a continued reliance on current modes of transportation would diminish the mobility of Regional Core residents and employees.

U.S. Department of Transportation, Urban Mass Transportation Administration, Southern California Rapid Transit District, Final Environmental Impact Statement (FEIS), Los Angeles Rail Rapid Transit Project (Metro Rail), December 1983, hereinafter Metro Rail FEIS, page S-1.

⁵⁹Draft Metro Rail EIS.

⁶⁰Metro Rail FEIS, p. 2-2.

boardings by the year 2000, and 261,000 for the MOS alone.⁶¹ The initial estimated costs were (in 1983 dollars) \$2.47 billion⁶² for the LPA and \$1.54 billion⁶³ for the MOS. A little over one-third of the costs would be provided from state funds and tax revenues from Proposition A. The remainder was expected to be provided by the federal government. Annual operating costs would be \$48.5 million and \$31.9 million, respectively, for the LPA and the MOS, however, these would be offset as annual costs for providing bus service were projected to decrease by \$38 million annually (from \$526 million to \$488 million) with the MOS and drop by \$79 million (to \$447 million) with the full LPA.⁶⁴

The EIS concluded that the project would complement local and regional land use goals including the Centers Concept by serving 12 of the designated Centers in the Regional Core, where city and county land use plans called for increased development and density to preserve surrounding low density residential areas. The RTD estimated that when the subway was completed, an estimated 1.12 million automobile vehicle miles per day would be diverted to transit (1.06 million from just the MOS), resulting in a

⁶¹This was almost 100,000 more riders than the entire 71-mile BART system was carrying at the time.

⁶²Equivalent to \$4.69 billion in 2004 dollars.

⁶³Equivalent to \$2.92 billion in 2004 dollars.

⁶⁴Metro Rail FEIS.

reduction of 7.9 tons of carbon monoxide a day.⁶⁵ Transit s share of all trips would increase from 3.3 percent to 3.8 percent. These changes were projected to have long term impacts on the land use efficiency, transportation system viability, and the economic and fiscal attributes of the Regional Core. ⁶⁶ It also predicted that with the subway in place, RTD would be able to reduce the number of buses in service from 2,100 to 1,969. Though it did not directly address the potential negative impact that might have on bus riders, the study did note that should Metro Rail not be built, the RTD could increase bus service to 2,200 buses at peak hours, create a simpler grid system, and establish continuous lines on major streets while adding north-south crosstown lines. Bus ridership would be expected to increase by about a third but, the study warned, buses would travel on extremely congested streets in the Regional Core.

Crenshaw Station Controversy

Although the areas through which the Wilshire subway was to run contained large numbers of poor transit users, South Central residents complained bitterly they were not being served by the project. The initial design of the subway route included stations along Wilshire Boulevard at Vermont, Normandie, and Western, and the endpoints of the

⁶⁵The FEIS noted that this would represent only a minor improvement in overall regional air quality. Metro Rail FEIS, page S-9.

⁶⁶Metro Rail FEIS, page S-7.

Miracle Mile section at La Brea and Fairfax, but no station at the intersection of Wilshire and Crenshaw, located between Western and LaBrea, in an lower density commercial and residential area known as Park Mile. South Central residents argued that the station would provide them with direct access to downtown from the heavily-used Crenshaw bus line. Staff had considered the option of a station at that location, but dropped it as the city's Park Mile Specific Plan for the Wilshire-Hancock Park area specified low level development for the area (see Figure 6.9). Moreover, white homeowners in the fashionable Hancock Park area *north* of Wilshire were strongly opposed to a subway station near their neighborhood, and even threatened to sue the city if one were planned. On the other hand, minority residents of the Crenshaw community *south* of Wilshire strongly supported the station. RTD staff reported that a significant number of trips to the rail system would likely be lost were the station not included.

The General Manager of the RTD, John Dyer, initially opposed the station on the ground that the local specific plan precluded a rapid transit station at that location. He took the position that the National Environmental Policy Act (NEPA) governed the decision and precluded any action creating a possible conflict with any local land use plans, policies or controls.⁶⁷ Los Angeles City Planning Director Cal Hamilton also strongly opposed the station on the grounds that was not included in any city plans and was inconsistent with the Centers Concept, urging that it be immediately deleted from consideration.⁶⁸ Equally opposed was L.A. City Councilman (later Council President) John Ferraro, representing the predominately white San Fernando Valley, calling it detrimental to Los Angeles planning priorities, transportation needs, commercial development, and community interests.⁶⁹

Supervisor Hahn, however, urged the District to support the station as Crenshaw was a major street serving local business and residents of several cities all the way south to the Palos Verdes Peninsula.⁷⁰ He was joined by State Senator Diane Watson, supported by other African American elected officials, and City Councilwoman Pat

⁶⁷Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, Article 1502.16, Environmental Consequences, 40 C.F.R. section 1502.16. The section provides that there must be a discussion in the EIS of any possible conflict and where an inconsistency exists to describe the extent to which the agency would reconcile its proposed action with the plan or law. Id., section 1506.2(d).

⁶⁸Letter from Cal Hamilton, Director of Planning, to John Dyer, General Manager RTD, May 26, 1982.

⁶⁹Letter from John Ferraro, Council 4th District, to Michael Lewis, Board Chairman, RTD, May 28, 1982.

⁷⁰Letter from Kenneth Hahn, Supervisor, Second District, to John Dyer, General Manager, RTD, July 29, 1982.

Russell, a close ally of Mayor Bradley. The local branch of the NAACP also went on record supporting the station.⁷¹ Supporters argued that neither the Park Mile Specific Plan, the Wilshire District Plan, nor the Los Angeles General Plan specifically prohibited siting a station at Crenshaw/Wilshire. Moreover, the station would provide a connection south to the Crenshaw shopping center, which *was* an officially designated Center. Noting that other planned stations were located outside Centers, the officials insisted that a station at Crenshaw would provide a key point of access to the Metro Rail system for many transit-dependent residents of the Crenshaw area -- loyal consumers and supporters of public transportation willing to wait their turn for direct Metro Rail service to their own neighborhood, but who claimed the right to transfer onto the subway once they reached the north end of Crenshaw Boulevard.⁷²

Caught between the predominately white homeowners north of Wilshire concerned with parking, congestion and other adverse impacts on their community⁷³ and the Crenshaw residents and businesses desire for transit access supported by a number

⁷¹Letter to Kenneth Hahn from Los Angeles Branch, NAACP, January 27, 1983.

⁷²Letter from Diane E. Watson, Thirtieth Senatorial District, to Michael W. Lewis, President, Board of Directors, RTD, August 16, 1982.

⁷³RTD General Manager Dyer summarized the dispute in an August 20, 1982 letter that hints at deeper conflicts:

Those who do not want a station at Crenshaw appear to be concerned that a station might adversely impact the surrounding residential community in the form of parking complications, additional congestion, and other disruptions. *There may be other reasons as well.*

Letter from John A. Dyer to Marvin L. Holen, August 20, 1982 (emphasis added).

of important elected minority officials, the RTD began to carefully backpedal from its initial opposition, suggesting that should the City of Los Angeles wish to approve the station as not inconsistent with their planning regulations, a station could be designed that would minimize local disruptions.⁷⁴

Financing the Plan

Following public hearings on the Draft EIS, the RTD began preliminary engineering for the project, analyzing in detail the effects of its preferred alternative. By November of 1983, the RTD published its Final EIS for Los Angeles Rail Rapid Transit Project.⁷⁵ The Wilshire/Crenshaw station was included in the Final EIS even though no final decision regarding the station had yet been made.⁷⁶ Based on the report, the RTD officially selected the underground 18.6-mile LPA plan for final design and construction, and UMTA approved the Final EIS.

⁷⁴The Los Angeles City Council ultimately voted to approve the Crenshaw station. *Los Angeles Times*, Council OKs Subway Stop at Crenshaw, June 1, 1983, p. 1.

⁷⁵The Final EIS analyzed four alternative plans: (a) the locally preferred alternative (LPA) consisting of 18.6 miles of entirely below ground tracks; (b) the same 18.6 mile system with some aerial components; (c) the "minimum operable segment" (MOS) of the initial 8.8 miles from downtown to Hollywood, and (d) a standard "no project" alternative.

⁷⁶U.S. Department of Transportation, Urban Mass Transportation Administration, Southern California Rapid Transit District, Final Environmental Impact Statement (EIS), Los Angeles Rail Rapid Transit Project (Metro Rail), December 1983.

Despite the fact that only the MOS section of the system could be shown to generate financially sound ridership projections, the RTD nevertheless recommended constructing the entire 18.6-mile system, due primarily to the necessity for garnering political support from the Hollywood district and the San Fernando Valley, and reflecting the long history of failed attempts to connect those areas with the CBD by transit. Consideration of a Crenshaw station was likewise a nod to the need to maintain racial harmony in the city. Even with the minor concession to South Central residents, the Metro Rail project served what at the time were predominately white areas, and completely ignored the largest minority population in the region, Latinos living in East Los Angeles.

A portion of the 1983 five cent a gallon increase in the federal gasoline tax had been promised for new rail starts (see chapter Two). The fund was expected to have over \$1 billion available annually for distribution. Cities like Los Angeles and Houston, which both had major rail projects on the drawing board were in competition for those funds. This first phase of L.A.'s Metro Rail project was now estimated to cost approximately \$3.1 billion,⁷⁷ one-third more than the initial estimate.⁷⁸ The RTD initially planned to request that the federal government pay 75 percent of the \$2.3 billion eligible

⁷⁷Equivalent to \$5.9 billion in 2004 dollars.

⁷⁸*Los Angeles Times*, L.A. Subway Cost Estimate Revised Upward \$1 Billion, April 8, 1983. Part I, p. 1. See also Southern California Rapid Transit District, Alternatives Analysis/Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR), April 1980.

costs over 6 years or about 56 percent of the total costs. In a sign of the coming federal retrenchment in transit funding, the Reagan administration indicated it was only willing to finance half.⁷⁹ To try to win backing for the project, the RTD decided to reduce its request to 62 percent, with the a higher proportion of the initial construction costs paid by state and local sources, in the hope that the federal government would pick up a larger share of the tab down the road.⁸⁰

Not everyone approved of using Proposition A funds to finance construction of the Red Line. Republican Congress member Bobbi Fiedler, representing the largely white northern and western portions of the politically rebellious San Fernando Valley, publically urged that the voters be allowed to decide on whether or not to spend local funds on the 18.6 mile project. Claiming that it would place an unconscionable burden on Los Angeles taxpayers well into the next century, she questioned the RTD s claim that a vote for Proposition A had been a vote for the subway, noting that the voter pamphlet also touted reduced bus fares and a much larger rail system.⁸¹ Fiedler charged that the subway was not cost-effective, was gold-plated, cost three times as much as other subways then under construction, and would require much higher fares and public

⁷⁹*Los Angeles Times*, Must Raise Larger Share of Subway Cost, L.A. Told, April 28, 1983.

⁸⁰*Los Angeles Times*, Officials to Trim Subway Request, May 10, 1983.

⁸¹Supervisor Hahn, for one, believed that Metro Rail funding had already been arranged and that the funds collected under Proposition A would go toward a light rail system, including the Los Angeles-Long Beach route through his district.

subsidies to operate than claimed by the RTD.⁸² Such opposition clearly reflected the continuing tensions between suburban and downtown interests that has long plagued rail development in the region.

To begin work on the Metro Rail project, the RTD initially requested \$205 million in federal funding for the fiscal year, but trimmed the request to Congress to \$178 million in line with the reduction in federal participation.⁸³ The Transportation Subcommittee of the House Appropriations Committee only approved \$110 million, or about enough to construct three stations.⁸⁴ The full House voted to approve \$127.5 million, rejecting an amendment by Representative Fiedler to cut out funding entirely for the project. The additional \$17.5 million was shifted from Houston after voters there rejected a bond issue for transit.⁸⁵ The Senate, however, voted to cut funding to \$110.4 million, but agreed in conference to compromise at \$117.2 million.⁸⁶

Such debates aside, rail was returning to Southern California. In selecting the

⁸²Rep. Bobbi Fiedler, Metro Rail or Metro Boondoggle?, *Herald Examiner*, July 6, 1983; Letter to Kenneth Hahn from Rep. Bobbi Fiedler, July 8, 1983.

⁸³*Los Angeles Times*, Metro Rail Funds Face Further Cuts, May 24, 1983, p. 1.

⁸⁴*Los Angeles Times*, Key House Panel OKs LA Subway Funds, May, 25, 1983, Part I, p. 3.

⁸⁵*Los Angeles Times*, House OKs L.A. Subway Funds, June 23, 1983, p.1; *Los Angeles Times*, voters Kill a Plan for Metro Like L.A. s, June 19, 1983, Part IV, p. 3.

⁸⁶*Los Angeles Times*, Senate Panel Cuts into L.A. s Subway Allotment, July 13, 1983, p. 1; *Downtowner*, Reagan Signs Metro Rail Check for \$117.2 Million, August 23, 1983, p. 4.

Wilshire Corridor project, the RTD arguably fulfilled its statutory mandate to develop a regional transit system, though as one part of the more comprehensive RTDP in a way that was at least intended to complement efforts to improve local bus service. It chose a route, so the agency argued, that would augment existing service along a corridor that had become too congested to be adequately served by buses alone. Although it did not directly serve any minority communities, it did provide service to the densest commercial corridor in the city, thus arguably increasing access to job opportunities. The extension to the then mostly white Hollywood and San Fernando Valley, while perhaps marginal from a transportation planning perspective, was simply the political price to be paid for the project. While there were critics and many had doubts about the advisability of building an expensive and relatively limited subway system in an area as sprawling as Southern California, there was at least some plausible rationale for the RTD's rather modest attempt at creating a multi-modal transit system. The LACTC, though, had much more grandiose plans.

Blue Line

To the Board of the LACTC, the RTD's Wilshire Red Line represented a clear competitor for scarce transit funds. Eager to produce tangible results on the heels of its election success, the LACTC considered a number of different projects including (1) a

\$120 million⁸⁷ downtown to Santa Monica route via Exposition Boulevard (favored by the City of Los Angeles Planning Department), (2) a \$194 million⁸⁸ downtown to Long Beach route, and (3) a \$195 million⁸⁹ downtown to Chatsworth route through the San Fernando Valley.⁹⁰ With pressure from Kenny Hahn, the Board proposed constructing the 22-mile mostly at-grade, north-south, light rail transit line (the Blue Line) between downtown Los Angeles and Long Beach (see Figure 6.10). The Blue Line would run along the old Pacific Electric Railway Company route proposed by Supervisor Hahn that had ironically carried the last of the original Red Car lines before service ended in 1961 (see Chapter Four), a point not at all lost on its supporters.⁹¹ The Blue Line was selected in part because of the availability of the old PE right-of-way, but it also passed through the mostly minority district represented by Hahn, who had engineered the legislative compromise over Proposition A, and had important political support from the City of Long Beach. While the selection of the Los Angeles-Long Beach route was based more on political expediency than any careful planning rationale, the members of the LACTC did seem to believe it could be built quickly and cheaper and thus demonstrate tangible results from the sale tax. It was important for the LACTC to prove it could deliver on its

⁸⁷Equivalent to \$235 million in 2004 dollars.

⁸⁸Equivalent to \$380 million in 2004 dollars.

⁸⁹Equivalent to \$382 million in 2004 dollars.

⁹⁰*Los Angeles Times*, Southland May Get Streetcar Line, February 27, 1982.

⁹¹Los Angeles interests preferred the Red Line extension to Santa Monica route, but agreed to support the Blue line after receiving guarantees that some of the sales tax revenues would go to Metro Rail. *Press-Telegram*, Blue Line gives Hahn last laugh, July 8, 1990, pp. 3&5.

campaign promises. Thus began a competition between the LACTC and the RTD over who would be able to open a rail line first, with the brash young technocrats of the LACTC eager to prove that they could do a better job of bringing rail transit to Los Angeles than the old-line bus managers in the RTD. The contrasting styles between the two agencies, as well as their competing philosophies of transportation planning, led to a number of clashes and simmering animosity that ultimately pitted the entire rail program against bus patrons and their advocates.⁹²

Approved by the Commission on March 27, 1985, the Long Beach Blue Line route won the race and opened on July 14, 1990.⁹³ Although Supervisor Hahn had long championed a Los Angeles-Long Beach rail line, he would later call the Blue Line a gigantic boondoggle as costs soared from the original \$200 million estimate to a final price tag of at least \$877 million.⁹⁴ Construction of the Blue Line also had an impact on local bus service. In order to better coordinate its existing bus service with the new transit service, the RTD adopted a bus/rail interface plan designed to eliminate 55,000

⁹²Richmond (2005).

⁹³In the downtown area three options were considered: a street level route, an aerial route, and an underground subway route. The LACTC opted to underground the line for a distance of about one mile, citing opposition to the alternative routes from the city and local property owners. The final design called for a double-track subway beginning at the Metro Rail station at 7th and Flower Street, emerging at grade just south of the downtown area and connecting to the former SP right-of-way for a distance of 18 miles, to Atlantic Boulevard in Long Beach. The 103rd Street station located near the old Watts railroad station would eventually be named for Supervisor Hahn, who in the tradition of William Mulholland declared on the line's opening day, "There is the Blue Line. Ride it!"

⁹⁴Thomas Rubin, "Environmental Justice and Transportation Decisions: The Los Angeles Experience." Presentation to the Transportation Research Board Annual Meeting, January 12, 2000.

revenue bus hours with an annual savings of \$4 million, though some costs would increase in the short run as the changes were phased in. The plan called for eliminating some lines that paralleled the Blue Line and to reroute some cross town service to act as feeder lines. With full implementation, the RTD believed it could eliminate a total of 23 peak-period buses. Estimates were that the Blue Line would carry 31,000 boardings per day in 1991.⁹⁵ The net effect was actually less as the majority of these, roughly 25,000, were anticipated to be former bus riders, who would be forced to take the rail as bus service was curtailed.⁹⁶

Rail Transit Implementation Strategy

The LACTC quickly realized that, even with the Prop A funds, it would not be able to afford to construct its entire system at once, and possibly not at all. In its May 1983 Rail Implementation Strategy, the LACTC began to prioritize the 11 remaining corridors identified on the Prop A map as to which most warranted rail service by the year 2000 (see Figure 6.10). The mainly qualitative technical selection criteria included traffic

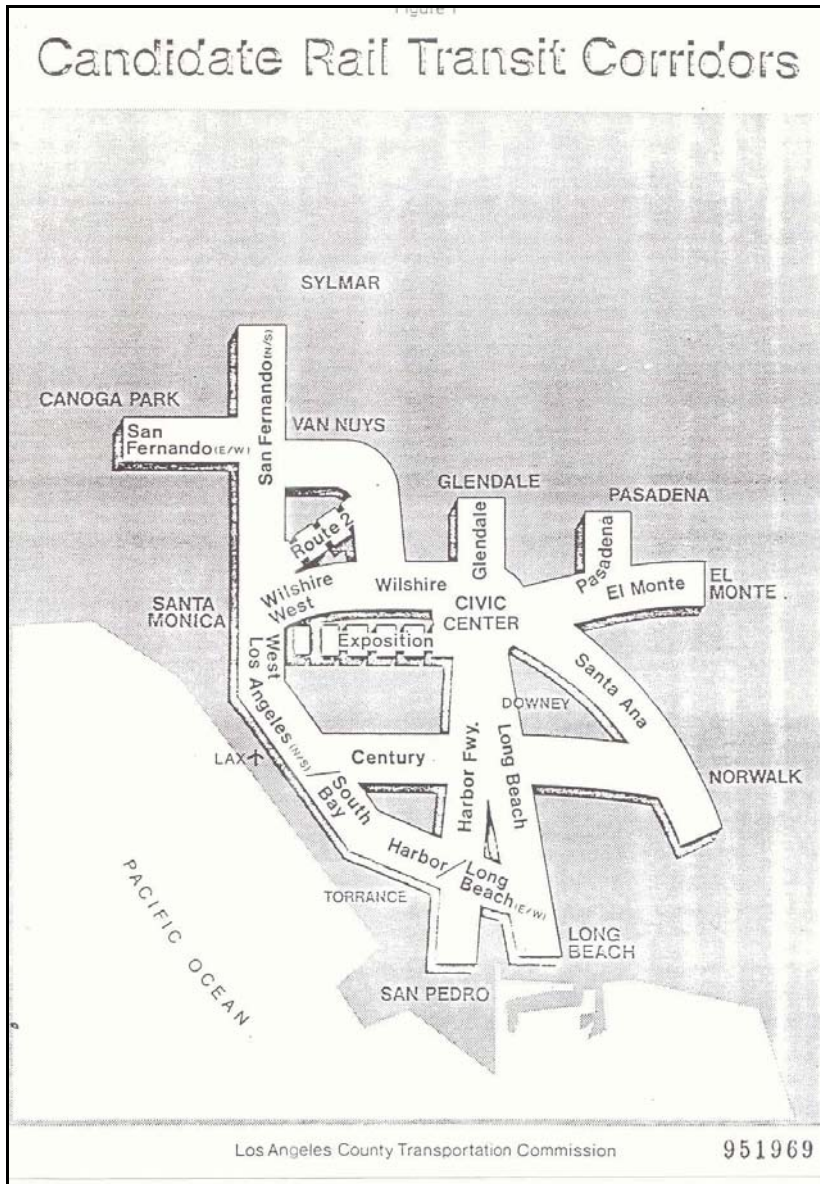
⁹⁵Estimated ridership as part of the completed system was anywhere from 54,000 to 76,000 per day and initial cost estimates ranged from \$400 to \$427 million. LACTC, Draft Environmental Impact Report Summary, The Long Beach-Los Angeles Rail Transit Project, May 1984. According to the MTA, as of July 2000, ridership averaged 63,000 daily.

⁹⁶RTD Bus/Rail Interface Plan, Fiscal Year 1991: Revised Proposal, October 1989; RTD Memo to Board of Directors, October 19, 1989.

congestion, rail construction cost-per-mile, expected level of patronage, proximity to growth centers, land use distribution, percentage of transit dependents, and percent of line that would use existing facilities.⁹⁷

⁹⁷LACTC, Rail Transit Implementation Strategy, Stage 1, May 1983.

Figure 6.10. Candidate Corridors



Source: LACTC, Rail Transit Implementation Strategy, May 1983.

Using policy criteria developed for the Regional Transportation Plan (RTP) by the Southern California Association of Governments (SCAG),⁹⁸ staff ranked the Candidate Corridors as to the degree of support for existing Centers (measured by the number of Centers per mile), the opportunity to relieve capacity deficiencies (measured by volume-to-capacity ratios), and the potential to promote balanced subregions by encouraging intra-corridor trips rather than travel between subregions (based on land use distributions and number of transit dependent riders). They also considered which corridors presented the greatest current travel demand and capacity deficiencies, which would have the highest ridership, and which had the most available rights of way. The results of their analysis is presented in Figure 6.11.

⁹⁸SCAG is the federally-designated Metropolitan Planning Organization (MPO) for Southern California and is legally responsible for preparation of the federally-required Regional Transportation Plan.

Figure 6.11. Corridor Ratings

TABLE 2: CORRIDOR RATINGS BY SYSTEM CRITERIA

SYSTEM CRITERIA	CENTURY	EL MONTE	EXPOSITION	GLENDALE	HARBOR	PASADENA	ROUTE 2	SAN FERNANDO (E/W)	SAN FERNANDO (N/S)	SANTA ANA	SOUTH BAY/HARBOR/LE	WEST L.A. (N/S)	WILSHIRE WEST
Support development in centers · number of growth centers per mile			X				X					X	X
Relieve capacity deficiencies · year 2000 volume/capacity ratios	X									X		X	X
Promote balanced subregions · degree of land use mix				X		X		X				X	X
Meet existing needs first · percent transit dependency · crosstown orientation · patronage	X					X				X			X
Maximize transit ridership · volume/capacity ratio · cost per mile · patronage					X	X				X			X
Use existing facilities · percent of line along existing facility	X	X	X		X			X					
Be cost effective.													
Be environmentally sound													
Be financially feasible													
Be acceptable to public													

196196 951981

Source: LACTC, Rail Transit Implementation Strategy, May 1983.

In selecting among the corridors, the Board was presented with the choice of focusing on serving the downtown area, or connecting the various Centers with crosstown

rail service. As the staff's report notes, "The desire to connect development centers with transit is a cornerstone of planning done by the City and County of Los Angeles."⁹⁹

Serving designated Centers takes advantage of existing infrastructure and provides opportunities for joint developments. On the other hand, serving built up areas would be more costly, reducing the extent of the system that could be constructed. The report concluded that constructing rail within freeway rights-of-way would be less expensive but would not serve as many Centers because most Centers in Los Angeles are not located along freeways.

Six corridors were recommended for rail development:

- (1) the Century Freeway Corridor (Green Line)
- (2) the Pasadena Corridor (Blue Line)
- (3) the West Los Angeles East-West Corridor (Red Line extension)
- (4) the San Fernando Valley East-West Corridor (Red Line extension)
- (5) the Santa Ana Corridor Transitway (convertible to rail), and
- (6) the West Los Angeles North-South / South Bay Corridor.¹⁰⁰

⁹⁹Los Angeles County Transportation Commission, Rail Transit Implementation Strategy; Stage 1, May 1983, p. 7.

¹⁰⁰Los Angeles County Transportation Commission, Rail Transit Implementation Strategy; Stage 1, May 1983. Preliminary work on the Harbor Freeway corridor had already been completed as part of the Caltrans busway/ HOV facilities. The El Monte, Glendale, San Fernando Valley (N/S), and Harbor/Long Beach (E/W) corridors were not considered high priority for rail, but warranted further study for bus or other highway improvements. The Wilshire corridor included Wilshire Boulevard, Exposition Boulevard, and
(continued...)

Representative routes and modes were developed and adopted by the LACTC for these six high priority corridors based on land use compatibility studies, and cost and ridership estimates were prepared based on the experience of other transit projects around the country.¹⁰¹ The remaining corridors (El Monte, Glendale, San Fernando Valley North-south, and Harbor/Long Beach East-West) were recommended for multi-model analysis only at this point.

In the second phase of the process the LACTC selected representative rail routes and specific modes. The recommended interim rail transit system is shown in Figure 6.12. In adopting the interim rail system the Commission followed two main ground rules: (1) Proposition A requires emphasizing the use of existing rights-of-way for rail transit, and (2) linking multi-purpose centers with rail lines to support the policies of the City of Los Angeles, County of Los Angeles and the SCAG.¹⁰² The keystone of the

¹⁰⁰(...continued)

Santa Monica Boulevard (Route 2) as alternative routings.

¹⁰¹A computer-modeled rail alternatives network was created and integrated into the transit network component of SCAG's regional transportation model. The model was run adding each rail alternative at a time in order to obtain estimates of rail patronage. The land use component of the study considered the location of housing, commercial, office, industrial and institutional uses as well as open space. Alternatives were rated based on their potential to attract additional development or to support existing high intensity uses. The final selection was made on the basis of cost-effectiveness, ridership, support for land use policies and degree of community support.

¹⁰²Three of the nine high-priority routes adopted by the Commission used freeway rights-of-way -- the Century, Harbor and Santa Ana. The Pasadena rail line would also use portions of freeway right-of-way. The Long Beach and San Fernando Valley rail lines would use railroad rights-of-way. The Wilshire line and its extension to Santa Monica would not use existing corridors, nor would the north/south lines along the coast.

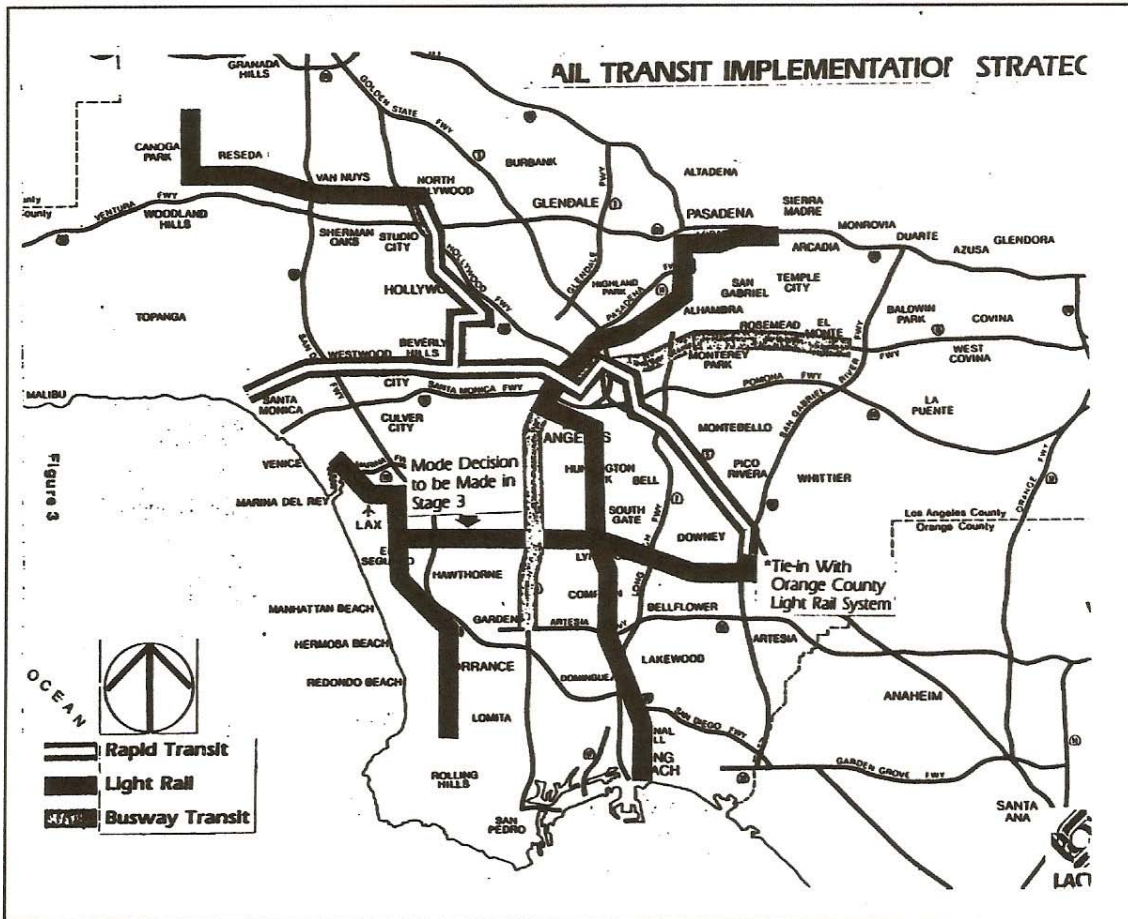
system would be the Wilshire Metro Rail Starter Line.¹⁰³ Heavy rail options were recommended for the West Los Angeles (E/W) extension of the Red Line beneath Wilshire Boulevard, and for the Santa Ana Freeway corridor Red Line extension southeastward to connect with both the planned future Orange County rail system and the eastern extension of the Century Freeway Transit Way (later the Green Line). An east-west light rail feeder system in the San Fernando Valley would connect to the Red Line at North Hollywood. Various above- and below ground modes would eventually be considered for this project, including a monorail running above the median of the 101 Freeway.¹⁰⁴ A north-south route light rail was also proposed in the West Los Angeles (N/S) / South Bay Corridor from Marina del Rey to Torrance that would connect to the western extension of the Century Freeway transit way. Whether the Century Freeway transit way project should be redesigned to accommodate a rail line in its median rather than the initially proposed bus lanes, was to be left for future decision.¹⁰⁵ Again, with the exception of the Wilshire Starter Line and the Century Freeway Transit Way all the proposed routes basically recreated old PE lines.

¹⁰³Originally the Regional Core Rapid Transit program authorized in the Regional Transportation Development Plan.

¹⁰⁴A light rail along the Burbank Branch would be chosen. This project, long delayed, was recently opened, but as a busway. It is designated the Orange Line.

¹⁰⁵Los Angeles County Transportation Commission, Rail Transit Implementation Strategy, Stage 2, January, 1984.

Figure 6.12. Rail Transit Implementation Strategy



Source: MTA, Rail Transit Implementation Strategy, May 1984.

Green Line

The Century Freeway stretches a distance of 17 miles across the southern portion of Los Angeles County, connecting Los Angeles International Airport (LAX) on the west with the San Gabriel River Freeway (I-605) on the east. U.S. Route I-105, as it is designated, also intersects with the San Diego (I-405), Harbor (I-110), and Long Beach (I-710) freeways. The I-105 traverses the cities of El Segundo, Hawthorne, Inglewood, Lynwood, South Gate, Paramount, Downey, and Norwalk, as well as the Watts section of Los Angeles, and unincorporated areas of Los Angeles County, including the communities of Willowbrook and Del Aire. The project was extremely controversial from the beginning, and is one of the last major urban highway projects in the country to have been built.

Originally scheduled for completion by the middle of 1977, construction of the I-105 highway project was delayed in litigation for almost two decades by environmental and civil rights advocates demanding, among other things, that the state Department of Transportation, known as Caltrans, provide replacement housing for poor and minority residents displaced by the construction.¹⁰⁶ The environmental plaintiffs in the action also fought to include mass transit options in the project. On July 7, 1972, the federal district court issued a preliminary injunction prohibiting further work on the freeway until federal

¹⁰⁶Keith v. Volpe, 618 F. Supp. 1132, 1137 (C.D. Cal. 1985).

and state officials complied with environmental and relocation assistance statutes.¹⁰⁷

In October of 1979, all parties agreed to a settlement in a complex, but innovative, Final Consent Decree.¹⁰⁸ Part of the decree *required* construction of a transitway within the median of the proposed freeway. It was understood by the parties, however, that the project would be initially designed as a bus/HOV facility that could be converted to rail if

¹⁰⁷Keith v. Volpe, 352 F. Supp. 1324 (C.D. Cal. 1972), *aff'd en banc sub nom.*, Keith v. California Highway Commission, 506 F.2d 696 (9th Cir. 1974), *cert. denied*, 420 U.S. 908, 42 L. Ed. 2d 837, 95 S. Ct. 826 (1975). Plaintiffs contended that CalTrans and the other defendants failed to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-4347, the California Environmental Quality Act of 1970 (CEQA), California Public Resources Code §§ 21000-21151, and various other federal statutes. Plaintiffs also charged that federal defendants had violated the due process clause of the Fifth Amendment to the United States Constitution and that state defendants had violated the due process and equal protection clauses of the Fourteenth Amendment.

Stating that it was acting to vindicate important national and state policies, the district court issued an injunction to halt further work on the proposed project until state and federal officials completed the environmental impact studies and reports required by NEPA and CEQA. In addition, the court required governmental officials to hold additional public hearings, conduct further housing availability studies, and give satisfactory assurances that adequate replacement housing would be available as required by the Federal-Aid Highway Act of 1968 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The Environmental Impact Report and Environmental Impact Statement ("EIS") required by NEPA took five years to prepare, and were approved in 1978 by the Secretary of the United States Department of Transportation. Keith v. Volpe, 501 F. Supp. 403, 405 (C.D. Cal. 1980).

¹⁰⁸The Consent Decree dissolved the court's 1972 injunction and required that the Century Freeway be constructed as proposed in the EIS. Among other goals, the Consent Decree indicated that the freeway project should be built with supporting transit facilities; that housing stocks be replenished for communities affected by the proposed path of the freeway; that employment opportunities generated by the project benefit the communities economically impacted by the project; and that significant economic opportunities and technical assistance support be provided for women and minority business enterprises. Consent Decree at 3. The purported benefits from the settlement included a free way designed to minimize noise and air pollution; special lanes designed for carpools; a transitway designed for fixed rail or bus service, which would include passenger stations and park-and-ride facilities tied in with a similar project to be added to the Harbor Freeway; a massive low-income housing program which would provide 4,200 decent, safe, and sanitary dwelling units for displaced residents; and an affirmative action employment and job-training program to insure that minorities, women, and residents of the corridor get a fair share of the 20,000 jobs created by the project. Keith v. Volpe, 960 F. Supp. 1448; 1997 U.S. Dist. LEXIS 9609 (D.C. 1997). It was estimated that the entire project would cost close to \$ 1.5 billion and will take about ten years to complete.

funds later became available. The decree also contemplated that a transitway would be constructed north from the intersection of the Century and Harbor Freeways that could also be used either for buses or converted to rail.¹⁰⁹

The LACTC analyzed the corridor as part of its Rail Transit Implementation Strategy. Assuming completion of the other components of the Interim Rail system, patronage on the Century Freeway corridor busway was estimated to be 5,300 more trips per day than with the rail option. With rail on the Century Freeway, though, ridership on the entire system was expected to increase by 5,700. These figures were less than 1 percent of systemwide ridership and only 5 percent of daily patronage in the corridor. Costs to build and operate the rail option were generally more than for buses. Initially, the agency chose to construct a busway. Nevertheless, in June 1984, the LACTC reversed itself and voted to authorize \$133 million¹¹⁰ to construct the light rail facility, concluding that it would be less costly in the long run to start construction as soon as possible.¹¹¹

¹⁰⁹The LACTC ultimately chose the Harbor Freeway Busway option, without precluding the possibility of building rail initially within the Century Freeway corridor. Proposition A contemplated that rail would be constructed at some time within the Century Freeway corridor. The initial viability of rail, however, depended on what other facilities would be part of the system, which was not known until preliminary studies were completed.

¹¹⁰Equivalent to \$248 million in 2004 dollars.

¹¹¹The total transitway costs of the rail option was \$229.5 million compared to \$177.0 million for the bus/HOV alternative. Vehicle replacement costs were comparable but rail yard costs were \$16.0 million higher than bus garages. The net difference, including extending the rail line to El Segundo, was just over \$100 million. Startup costs for the rail would be about \$98.2 million or \$57 million more than for bus, though there would be some savings in vehicle replacement costs over the long run. On the other hand, the
(continued...)

Originally designed to accommodate special driverless cars on a totally grade separated guideway (the so-called LA Car project), the Green Line runs east-west from Norwalk to El Segundo using the center median of the I-105 freeway, a relatively lightly traveled transit corridor.¹¹² The Green Line crosses the Blue Line at the Rosa Parks station where passengers can transfer systems for access to downtown Los Angeles or Long Beach.¹¹³ It was completed at a cost of approximately \$1 billion dollars, including \$300 million from discretionary highway improvement funds.¹¹⁴ Plans called for a further extension to be constructed south to Torrance, and for a northern extension to serve the LAX Transit Terminal and Marina del Rey, as well as an eastern extension to link up with the proposed Orange County rail system.

¹¹¹(...continued)

light rail alternative was estimated to be \$5.2 - \$9.3 million less costly to operate each year, and the costs to convert later to rail would be higher. Staff recommended that the Commission make the minimum commitment necessary to begin constructing a light rail line on the Century Freeway. The annual cost to begin operation would be between \$39 and \$63 million. Los Angeles County Transit Commission, Rail Transit Implementation Strategy, Stage 3, undated.

¹¹²The driverless car project, known as LA Car, was beset by technical, financial and political difficulties. The Green Line presently uses the same cars as the Blue Line, complete with human drivers.

¹¹³The Rosa Parks station is, of course, named for the African American woman whose refusal to give up her seat on a public bus prompted the Montgomery Bus Boycott led by the Reverend Dr. Martin Luther King.

¹¹⁴The use of funds ostensibly authorized for freeway construction for rail transit was somewhat controversial. The LACTC argued that the rail line would improve traffic flow on the freeway system. As described in Chapter Eight, when it came to finding funds to improve the bus system, the agency was far less creative.

Pasadena Line

By Spring 1990, the LACTC had also approved the Pasadena-Los Angeles Light Rail Transit project, also known at the time as the Pasadena Blue Line extension (the name was eventually changed to the Gold Line), running 13.6 miles from Union Station in downtown Los Angeles to Sierra Madre Villa. Plans also called for eventually constructing an underground connecting link through downtown to join this project with the Long Beach Blue Line at Seventh Street and Flower. The City of Pasadena agreed to commit over \$50 million for capital and operating expenses. The final arrangements included \$350 million from the State of California. Though not part of the original Rail Implementation Strategy, the agency also contemplated the eventual construction of a further extension east from Sierra Madre Villa to Azusa. By the time of the Bus Riders Union litigation the final design work on the project was partially completed and much of the real estate needed had been acquired. This project would become particularly controversial, as bus proponents sought to halt or delay it in order to shift funds to bus improvements (see Chapter Eight). Building all these projects made locating a substantial additional source of funds a priority.

Problems Plague the Red Line

The LACTC had planned to extend the Red Line subway west into Santa Monica from the Wilshire/Fairfax station. Almost from the start, though, the entire Red Line project began to face serious financial and other difficulties. By 1984, the federal government began to dramatically curtail funding for local transit projects as a result of the national budget crisis and Reagan Administration opposition which threatened to destroy the carefully constructed coalition for rail. UMTA determined it could not commit to providing funds for the 18.6-mile LPA or even the 8.8-mile MOS. Officials indicated that they only had funds to pay for construction out to Alvarado or possibly Vermont.¹¹⁵

The Red Line represented a delicate political balancing act between downtown business interests, residents and businesses in the Mid-Wilshire and Beverly-Fairfax districts, and the San Fernando Valley. While RTD planners had wanted to continue the line west to Santa Monica, political considerations forced it to be turned right at Fairfax and extended into the Valley.¹¹⁶ Keeping the coalition together to pressure Washington and Sacramento was crucial. Valley businesses that were mainly interested in the proposed light rail extension from North Hollywood to Canoga Park. became concerned

¹¹⁵*Los Angeles Times*, U.S. Lacks Funds for Metro Rail, February 24, 1984, Part I, p. 1.

¹¹⁶*Los Angeles Times*, Stronger U.S. Backing for Metro Rail Demanded, June 18, 1984.

that the RTD might now only build the portions in the downtown and Wilshire areas and might leave them out altogether.¹¹⁷ RTD chief Dyer promised to spend between \$15-\$40 million on station construction in the Valley within a year of beginning work on the downtown segment to ease some of those fears and keep them from backing out of the deal.¹¹⁸ But residents along Wilshire and Fairfax also became concerned about how the funding crisis might affect their areas.

The state, through Caltrans, had promised \$400 million to the subway contingent on 2/3 federal funding, and the LACTC had pledged \$412 million from Prop A funds, while the City had authorized about \$7 million. At this point, however, UMTA refused to issue a letter of intent for the project which would have guaranteed long term funding, suggesting that it might instead be willing to provide a letter of no prejudice that would only state that the federal government would still consider funding the project and might make funds available in the future. Without a stronger federal commitment it would be difficult to keep other state and local funders on board. Los Angeles had requested \$336 million in the 1984-5 fiscal budget, or about 85 percent of available rail funding.¹¹⁹ With Congress only willing to authorize about \$117 million, pressure intensified over

¹¹⁷*Los Angeles Times*, Metro Rail Backers in Scramble for Alternative Financing, April 10, 1984, p. 1. The assessment of the Valley's political commitment to the Red Line came from an attorney representing the Committee of 45, the major support group there.

¹¹⁸*Los Angeles Times*, Metro Rail Backers in Scramble for Alternative Financing, April 10, 1984, p. 1.

¹¹⁹*Los Angeles Times*, U.S. Lacks Funds for Metro Rail, February 24, 1984, Part I, p. 1. The City planned to request another \$336 million in FY 1986 and \$365 million in each of FY 1987 and 1988.

solidifying other sources of funds.¹²⁰

In the original legislation authorizing the subway project, the RTD had received authority to draw the boundaries to collect funds through benefit assessment districts. With the pressure to find additional funds, the RTD began recommending higher building densities along the subway route. The City became concerned the RTD would start to usurp its land use planning authority through high property assessments that would lead to over development in residential areas contrary to the principles of the Centers Plan. The Planning Department, under contract with the RTD to prepare specific plans for the station sites, responded by including proposals for limiting construction to a 6 to 1 floor area ratio (FAR)¹²¹ consistent with local community plans based on the Centers Concept. The RTD complained that in some of those areas the zoning already permitted building ratios as high as 13 to 1.¹²² One site in particular, a 55-acre parcel next to CBS studios adjacent to the proposed Beverly/Fairfax Metro Rail station, elicited special concern. The Planning Department proposed reducing the allowable amount of commercial development from 45 million square feet (about double the entire CBD) to just 3.5

¹²⁰*Los Angeles Times*, Hope Dims for More Metro Rail Dollars, June 19, 1984.

¹²¹The FAR is basically limits on the size of a building s floor area to a multiple of the lot area.

¹²²*Los Angeles Times*, Officials of Metro Rail Push for Relaxation of Building Density Plan, June 20, 1983. A group of public interest lawyers later successfully sued the city to require it to bring its zoning into conformity with its General Plan.

million square feet and rezone about half to residential uses.¹²³

Led by Councilman Zev Yaroslavsky, representing the Beverly-Fairfax area, and Councilman John Ferraro representing mid-Wilshire, whose districts bordered the CBS site, the Los Angeles City Council demanded it, not the RTD, be given authority over creating assessment districts and threatened to withdraw its financial commitment to Metro rail unless there was an exemption made for residential areas. State Senator Diane Watson, author of the original legislation, introduced a bill to resolve the issue by giving both the City and the County Board of Supervisors input in creating the districts, and including the residential property tax exemption eventually agreed to by the City and the RTD, clearing the way for the agency to collect about \$170 million from private developers.¹²⁴

¹²³*Los Angeles Times*, Planners Seek to Clamp Lid on Metro Rail Site, January 12, 1984.

¹²⁴*Los Angeles Times*, Local Feuds Seen Weaving a Shroud for Subway Funds, April 12, 1984; *Los Angeles Times*, RTD Rebuffs City on Residential Tax for Subway Stations, April 13, 1984; *Los Angeles Times*, Governor Reserves Tight to Take New Look At Metro Rail, April 17, 1984, p. 1.

MOS-1

In response to the federal cut back, the RTD proposed constructing just the first *four* miles of the system and only five stations, terminating at Wilshire Boulevard and Alvarado Street (see Figure 6.13). This alternative was designated the truly minimum operable segment or MOS-1.¹²⁵ RTD prepared a preliminary environmental study, concluding that MOS-1 would make a "viable contribution to the greater Los Angeles urban transportation infrastructure" and would ease congestion in the city's central business district. MOS-1 would provide service to the CBD and close-in residential areas, providing access to the CBD for those who lived in the densely populated Wilshire/Alvarado area. Despite its shortened length, it would still connect with Union Station, the city's main railroad terminal, to provide access to the El Monte busway which serves the San Gabriel Valley. MOS-1 would also connect with the Long Beach Blue Line light rail system and several major bus lines.

In June 1984, the RTD requested immediate funding for MOS-1, and asked UMTA to prepare an Environmental Assessment ("EA") for the project. UMTA issued its EA in August 1984, addressing the impact of building only a four mile system, particularly the effect of a terminal station at the intersection of Wilshire and Alvarado. The EA also addressed a "no project" alternative, but the agency concluded that even a

¹²⁵The agency noted that "because of continuing uncertainty of federal capital funds, this analysis has been undertaken to insure that the 4 mile project would be an independent operable segment."

shortened four mile system was preferable to no rail system at all. UMTA found that MOS-1 would be "worth the investment when weighed against the benefits . . . [of] increased accessibility and decreased total number of vehicle miles traveled in the [central business district] area." The environmental review process for MOS-1 was completed in November 1984, with the issuance of a Finding of No Significant Impact (FONSI) by UMTA. Through FY 1984, the DOT had awarded grants to the RTD totaling \$201 million for preliminary engineering and pre-construction work under Section 3¹²⁶ and Sections 9 and 9A¹²⁷ of the Urban Mass Transportation Act.¹²⁸ Including previously authorized funds, the total net cost of completing the MOS-1 segment was now estimated at \$721 million,¹²⁹ with UMTA agreeing to supply an additional \$274 million in fiscal years 1984-86, for a total federal commitment of \$555 million. Meanwhile, the state legislature approved a bill by State Senator Alan Robbins (D-Van Nuys) requiring that work on the North Hollywood station begin within a year of downtown subway construction and that 15 percent of all non-federal Metro Rail funds be spent on Valley projects each year.¹³⁰

¹²⁶Urban Mass Transportation Act of 1964, former 49 U.S.C. §1602 *et. seq.*, see now 49 U.S.C. §5309.

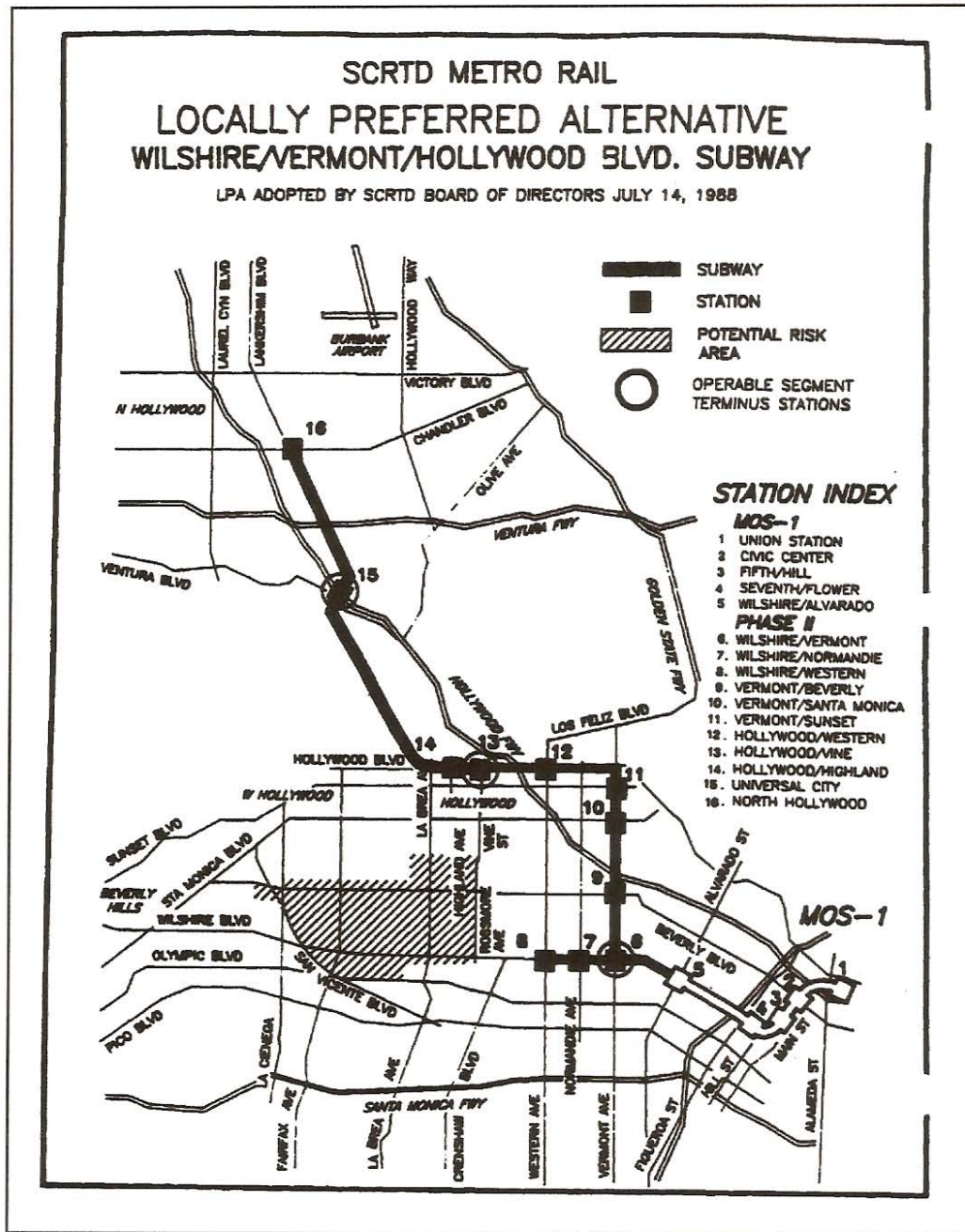
¹²⁷Urban Mass Transportation Act of 1964, former 49 U.S.C. §§1607a and 1607a-1, see now 49 U.S.C. §5307.

¹²⁸In addition to the \$210 million, UMTA supplied \$78 million in non-MOS-1 funding.

¹²⁹Equivalent to \$1,311 million in 2004 dollars.

¹³⁰*Los Angeles Times*, Metro Rail Bill Requires Work to Start at Both Ends of the Line, July 9, 1984.

Figure 6.13. Metro Rail Locally Preferred Alternative (MOS-1 and Phase II)



Source: SCRTRD, Final Supplemental EIS/Subsequent EIR, July 1989.

Phase II

Unfortunately, the problems associated with the construction of a rapid rail system in Los Angeles did not end there. Four months after UMTA issued the FONSI for MOS-1, an underground explosion of methane gas occurred several miles west of the proposed terminal station at Wilshire and Alvarado. This explosion occurred in the Fairfax Avenue section of Los Angeles, through which part of the original 18.6-mile route was to have passed. As a result of the explosion, a Los Angeles City Council task force appointed to look into the problem issued a report that labeled a 400 square block area around the site of the explosion and fire a "potential risk zone" (see Figure 6.13).¹³¹

The problem occurred at a particularly inopportune time as the RTD was asking Congress to authorize a \$429 million finance package to guarantee completion of the first leg of the Red Line. Congressman Henry Waxman who represents the Fairfax District, threatened to block the funds unless he could get assurances that the project would not pose a further danger to the area.¹³² At the urging Waxman, Congress voted to prohibit the use of any federal funds for construction of any part of the Los Angeles subway system unless RTD made a commitment to UMTA that no part of the system would

¹³¹City of Los Angeles, Task Force Report on the March 24, 1985, Methane Gas Explosion and Fire in Fairfax Area, June 10, 1985.

¹³²Los Angeles Herald Examiner, Switch in Metro Rail route called impossible, August 28, 1985; *Los Angeles Times*, Metro Rail Supporters Try to Heal Rift, August 28, 1985.

tunnel into or through any risk zone identified by the task force.¹³³ This Congressional action forced RTD to scrap the originally proposed route and develop a new rail system that would not pass through the Fairfax Avenue area. By June of 1986, RTD staff had identified four potential alternative routes, all of which would utilize the previously approved MOS-1.¹³⁴

The RTD subsequently completed a Congressionally Ordered Re-Engineering (CORE) Study of alternatives to the original alignment. The purpose of the CORE study was to identify an acceptable alignment linking the San Fernando Valley, the Wilshire Corridor, and the downtown CBD to provide service comparable to the originally proposed project. In July 1988, the RTD Board selected a new 17.3-mile Locally Preferred Alternative (LPA). A new Phase II project extended the MOS-1 westward but terminated at Wilshire/Western, short of the disputed Wilshire/Crenshaw station (which was not in fact within the Potential Risk Zone). The status of a further western extension from the Wilshire/Western terminal either over or around the risk area was left open. The

¹³³Public Law 99-1980 (December 19, 1985).

¹³⁴In August 1986, UMTA entered into a Full Funding Grant Agreement with the RTD agreeing to release \$225 million in Section 3 funds and \$49.5 million in Section 9 funds for the construction of MOS-1 from Union Station to Wilshire and Alvarado. The RTD, Caltrans, the LACTC and the City of Los Angeles agreed to commit an additional \$666 million worth of non-federal funds toward the project. The State of California contributed \$144 million, the LACTC \$358 million, the City of Los Angeles \$34 million and the Benefit Assessment District created by the City \$130 million. As part of the agreement between the UMTA and the RTD, the RTD and the City also agreed to share equally in any cost overruns. The cost of MOS-1 was estimated at \$623 million of which the federal government would contribute up to \$476 million. Urban Mass Transportation Administration, Full Funding Contract, Nos. CA-90-X204-00, CA-03-0130-07, August 27, 1986.

plan also incorporated a new spur segment running north beneath Vermont Avenue, a heavily traveled bus line, to Hollywood Boulevard, then west to stations at Hollywood and Vine, and at Highland Boulevard, before continuing northwest underneath the Santa Monica Mountains to North Hollywood, thereby eliminating the backward bend in the original plan.¹³⁵ Again, even this new segment is quite similar to the PE s 1906 subway proposal which included a spur line to Hollywood Boulevard running slightly to the west on Western. The CRA s Hollywood Redevelopment Project would eventually result in construction of a massive retail shopping and parking complex, including the new Kodak Theatre, permanent home of the Oscars, above the Highland Station.

MOS-2 and MOS-3

In April 1990, the LACTC entered into a Full Funding Agreement with UMTA for a portion of Phase II to Wilshire/Western and Hollywood/Vine, what was now called Minimum Operable Segment Two (MOS-2). The estimated project cost was approximately \$889 million¹³⁶ with the federal government providing 75 percent of the

¹³⁵U.S. DOT/RTD, Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report, July 1989.

¹³⁶Equivalent to \$1,285 million in 2004 dollars.

costs, or \$667 million.¹³⁷ The gross project cost was estimated at \$1.45 billion¹³⁸ with the local share over \$779 million.¹³⁹

Following completion of the CORE study, the LACTC conducted a Subsequent EIS process that resulted in the selection of a southwesterly extension from the Wilshire/Western termini with stations at Olympic/Crenshaw and Pico/San Vicente, previous site of the PE s Vineyard Station (see Figure 6.14).¹⁴⁰ This segment and its potential further extension to West Los Angeles was designated at that time as the Orange Line. The routing decision was essentially the result of a political deal struck with the largely minority area s Congressman to authorize additional federal funding to extend the Red Line while still avoiding the prohibited methane risk area.¹⁴¹ While routing the subway through the less dense Mid-City area would generate fewer trips than continuing

¹³⁷United States of America, Department of Transportation , Urban Mass Transportation Administration, Urban Mass Transportation Grant Agreement, Part I, Full Funding Grant Agreement No. CA-03-0341, April 10, 1990. The DOT committed a total \$329 million for fiscal years 1988, 1989, and 1990, toward the initial phase of construction. The DOT committed another \$149 million in fiscal year 1991 and \$188 million beyond that for a total of approximately \$667 million.

¹³⁸Equivalent to \$2.09 billion in 2004 dollars.

¹³⁹The State of California agreed to fund \$185 million, LACTC contributed \$440 million, the City of Los Angeles \$96 million and the RTD \$58 million.

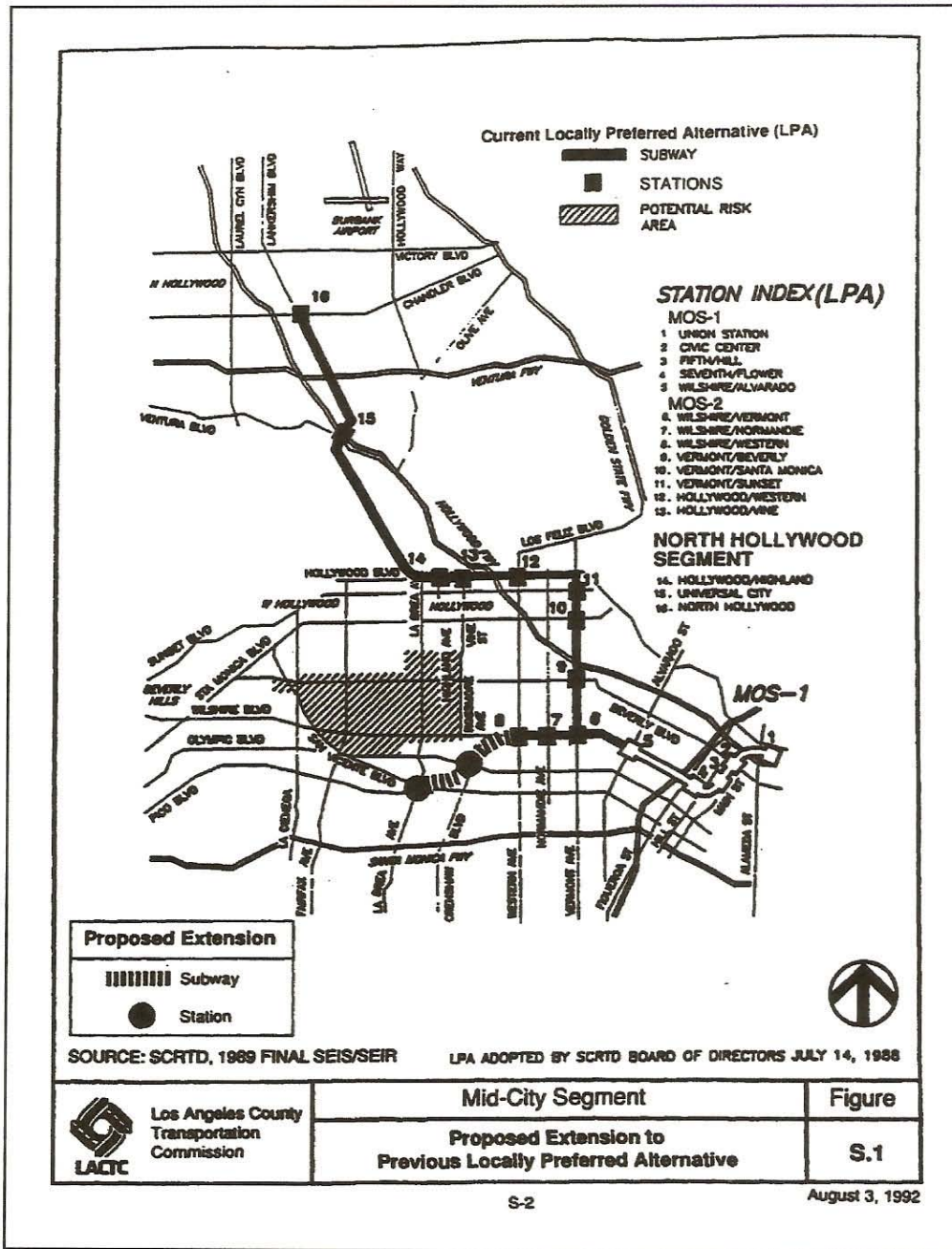
¹⁴⁰U.S. DOT/LACTC, Los Angeles Rail Rapid Transit Project - Metro Rail for The Mid-City from Wilshire/Western to Pico/San Vicente in the City of Los Angeles with Stations at Olympic/Crenshaw and Pico/San Vicente, Final Supplemental Environmental Impact Report, August 1992.

¹⁴¹Taylor, Brian and Eugene Kim, The Politics of Rail Transit Planning: A Case Study of the Wilshire Red Line in Los Angeles, UCLA Institute of Transportation Studies working paper, February 15, 1999.

along the Wilshire Corridor, the Congressional mandate made the move necessary.¹⁴²

¹⁴²Daily boarding estimates at Olympic/Crenshaw were 7,161 and at Pico/San Vicente were 11,903.

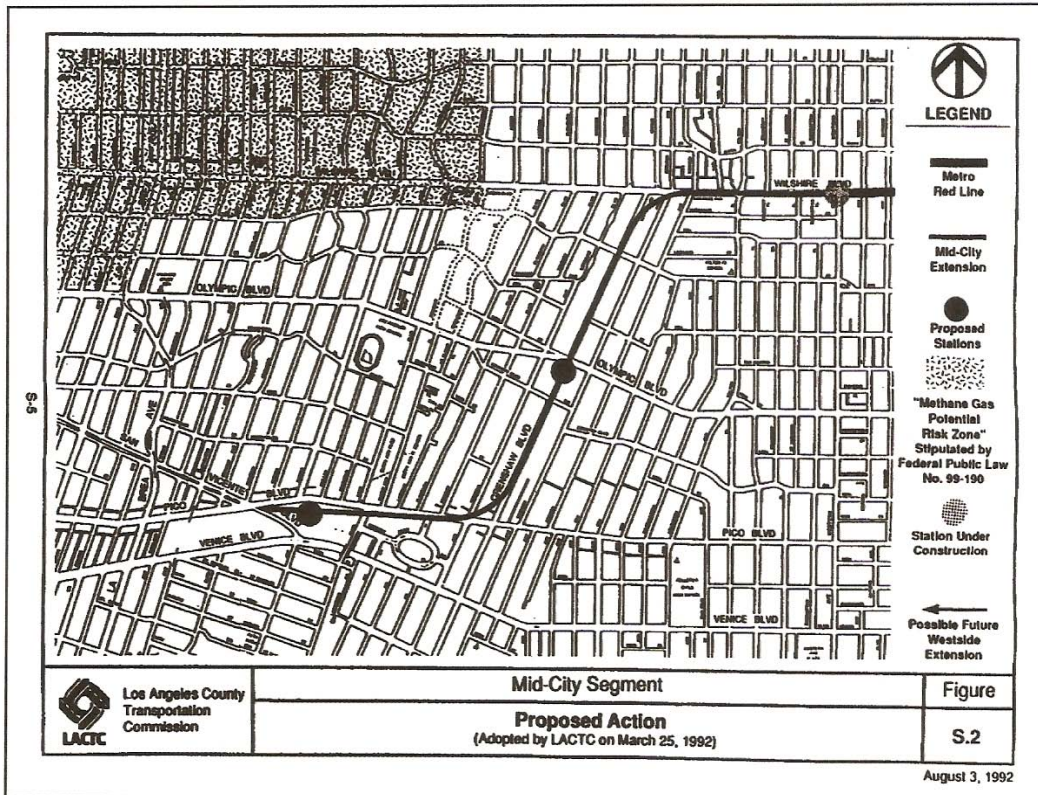
Figure 6.14. Red Line East Extension



Source: LACTC, Mid-City Final Supplemental EIR, August 1992.

The planned new stations would be able to serve as potential sites for urban revitalization in this distressed community adjacent to South Central Los Angeles (see Figure 6.15). The Olympic/Crenshaw station would replace the disputed Wilshire/Crenshaw station that was eliminated from the original alignment in MOS-1. It would serve a commercial area with a high potential for residential development while the station at Pico/San Vicente would link to the RTD/Santa Monica interface bus terminal and serve the adjacent local shopping center which the Los Angeles Community Redevelopment Agency (CRA) had designated as a potential candidate for major renovation (and which would be almost completely destroyed during the 1992 civil disturbances). Local supporters viewed the planned extension of rail service to the Crenshaw area as a measure of economic and racial justice. Again, should this link ever be constructed it would not be too dissimilar to the Venice cutoff originally proposed by the PE in 1906 (see Chapter Four).

Figure 6.15. Mid-City Stations

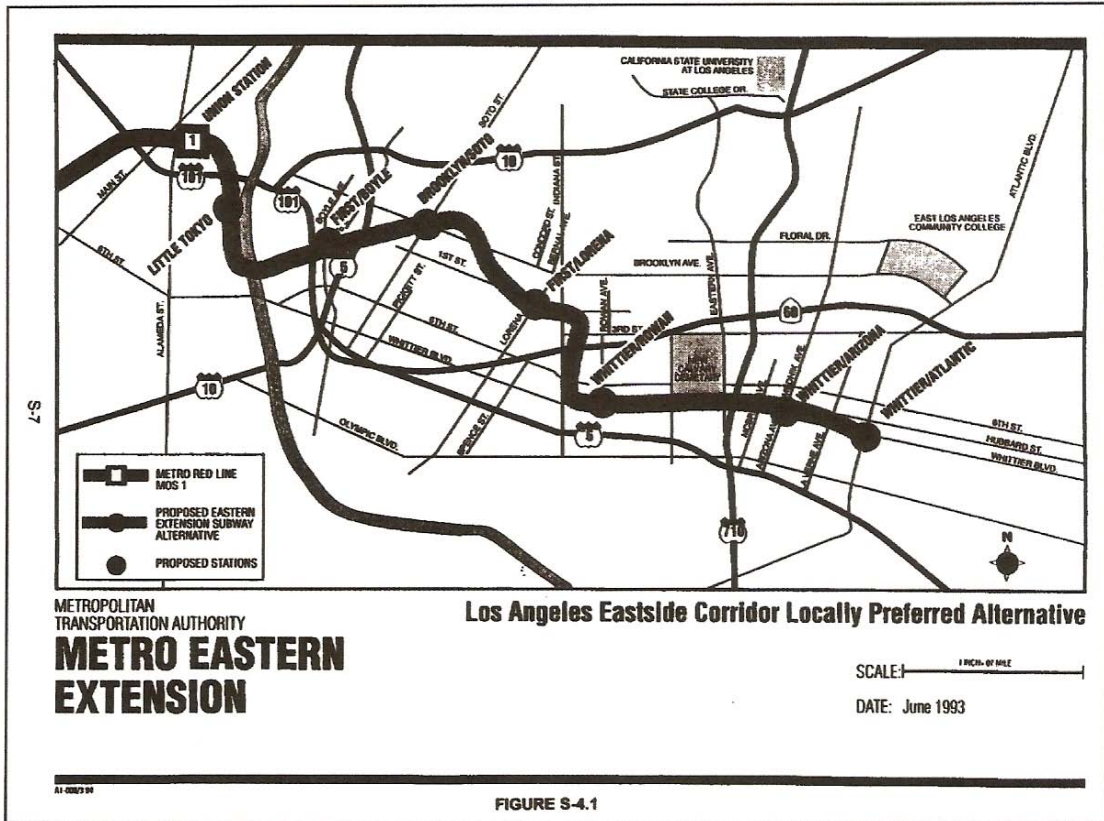


Source: LACTC, Mid-City Final Supplemental EIR, August 1992.

Another extension of the Orange Line from downtown to East Los Angeles, eventually joining the Orange County rail system and the Green Line via the Santa Ana Transitway, was also proposed (see Figure 6.16). A part of this Eastside segment (from Union Station to First/Lorena) along with the Mid-City Segment and the North

Hollywood Segment became designated Minimum Operable Segment Three (MOS-3).

Figure 6.16. Eastside Extension



Source: MTA Eastside Corridor EIR, June 1993.

Financial Warning Signs

With the Blue Line nearing completion, and the Red Line and Green Line under construction, the LACTC finally concluded that completing the entire system envisioned under Proposition A would require far more money than it currently had at its disposal. A financial analysis of the Rail Transit Implementation Plan showed that the projected \$100 million per year expected from Proposition A sales tax revenues would be insufficient to fund construction of all proposed rail projects.¹⁴³ So began a process to find additional sources of funding to complete the ambitious Metro Rail project, a process that would eventually and perhaps inevitably, lead to the fiscal crisis that prompted the MTA lawsuit.

The Board faced a choice of whether to issue bonds for construction or finance the rail system out of current revenues. The advantages of bond financing included more short-term capital to complete the system quickly but more of the cost of the system would end up being paid by future users and taxpayers. On the other hand, pay-as-you-go financing would be less expensive and less risky, but slower. In the end, completing the system as quickly as possible would win out over fiscal prudence.

The LACTC staff concluded that the Commission could conservatively borrow against future Proposition A rail funds to the point where annual interest and premium

¹⁴³The analysis assumed that all of the 35% Rail funds would go toward construction costs but that the 40% Discretionary funds would be used to subsidize bus and rail operations.

payments totaled one half of the annually available funds. Assuming the federal government provided up to 62 percent of the cost of the Metro Rail Red Line by 1991, then up to 100 miles of the interim rail transit system could be built by the year 2000, with full completion of the 130-mile system by 2005. With less federal support, the Red Line would have to be delayed as would other locally-funded projects.¹⁴⁴

The LACTC was also becoming increasingly concerned with the progress of current rail construction. In December 1988, the Commission replaced the RTD as the designated grantee for the Red Line project.¹⁴⁵ An LACTC audit of the MOS-1 project concluded that the project was at least a year behind schedule and \$135 million over budget.¹⁴⁶ Making up additional shortfalls for Metro Rail would mean bonding even higher amounts which would further impair the LACTC's ability to build the rest of the Proposition A rail system. And, there were additional pressures as San Fernando Valley interests pushed for assurances that the North Hollywood extension would be the first priority ahead of extending the line west of Wilshire and Vermont.¹⁴⁷ Raising additional tax revenues to fund rail would be problematic on top of the promises made to gain voter

¹⁴⁴Important projects that staff concluded might be affected included (1) the Long Beach and Pasadena Blue Lines connection through downtown, (2) the Valley extension of the North Hollywood Red Line, (3) the Metro Rail extension west to Century City and Westwood, and (4) the Coast line, running from Marina del Rey to the South Bay with a connection to the new Green Line.

¹⁴⁵RTD, Final Supplemental Environmental Impact Statement / Subsequent Environmental Impact Report, Los Angeles Rail Rapid Transit Project, Metro Rail, July 1989.

¹⁴⁶LACTC Minutes, July 26, 1989.

¹⁴⁷LACTC Minutes, July 27, 1988.

approval of Proposition A. As the regional transportation planning agency, the LACTC was also responsible for highway construction and improvement, and that gave them an opening.

Proposition C

Early in 1988, the LACTC had commissioned a telephone survey of voters in Los Angeles County to assess their attitudes towards various roadway improvements recommended in the Commission's highway plan, *On the Road to the Year 2000*.¹⁴⁸ Nearly three quarters of the respondents favored increased spending on streets and freeways and almost half indicated that they would support a tax increase to fund it. There was particularly strong support for improving freeway-to-freeway connections and adding new lanes to existing highways.¹⁴⁹ A followup focus group study indicated that voters agreed the county had severe transportation problems but that any tax increase should be tied to specific transportation projects. Few, though, were aware of the transportation projects then currently underway. Participants did indicate a preference for

¹⁴⁸The plan documented a series of projects designed to handle expected street and highway volumes over the succeeding two decades, the cost of which exceeded anticipated revenues by \$7.5 billion.

¹⁴⁹The Wirthin Group, A Telephone Survey of Registered Voters in Los Angeles County, May 1988.

a ½ cent sales tax increase over an 11 cent hike in the gasoline tax.¹⁵⁰

Based on these findings, the LACTC proposed placing an anti-gridlock streets and highways sales tax measure on the November 1990 ballot, for street, freeway and commuter rail projects to reduce traffic congestion. Fifty-five percent of the funds collected over a twenty year period would be used for projects such as freeway widening, improved interchanges, emergency highway tow truck services, and adding carpool lanes. Thirty percent would go for pothole repair and local street maintenance and signalization, and 15 percent would be devoted to providing commuter rail service on existing railroad lines. Two-thirds of sampled voters indicated support for the proposal.¹⁵¹

State law required the LACTC to obtain supporting resolutions from the city councils of a majority of the cities in the county representing a majority of the incorporated population, and the approval of the Board of Supervisors for the measure to qualify to be placed before the voters.¹⁵² Arguing that freeway speeds could slow to less than ten miles per hour if something was not done, the LACTC urged local jurisdictions to support the measure. Local cities would each receive \$50,000 per year plus a formula

¹⁵⁰The Wirthin Group, A Focus Group Study of Transportation Issues in Los Angeles, December 1988.

¹⁵¹Fairbank, Bregman & Maullin, Survey of Registered Voters in Los Angeles County Regarding a Ballot Proposition to Increase the County Sales Tax One Half Cent to Fund Transportation Improvement Measures, April 1989.

¹⁵²California Senate Bill 142, Local Transportation Authority and Improvement Act.

share based on population and street coverage. Facing an August deadline, the LACTC had received approvals from only 29 of the 44 cities needed to place the measure, termed the 1990 Fight Gridlock Ordinance, on the November 1989 ballot. Having failed to obtain the necessary city approvals for their initial measure, the Commission suspended its efforts to avoid jeopardizing approval of a statewide transportation finance package on the June 1990 ballot.

Another option still existed, however. The legislation establishing the LACTC permitted the agency to authorize a sales tax increase up to one percent, if approved by the voters.¹⁵³ Half of that increase had already been authorized under Proposition A. State law limited the use of revenues, however, to public transit services, which would not cover highway and road repair.¹⁵⁴ The RTD, however, was also interested in funding its expanded transit network and submitted its own proposal to the LACTC for a ½ cent sales tax increase. Eighty percent of the revenues would be devoted to transit operations, with the remainder split between capital funding for clean air equipment and facilities, special and demonstration projects, and funding for a county strategic transit plan. Although the LACTC was interested in a wider tax that would have included street and highway uses rather than public transit only, there were already other competitors for funds. The County sheriff was preparing a ordinance to increase the sales tax ½ cent for

¹⁵³California Assembly Bill 1246 (Chapter 1333).

¹⁵⁴California Public Utilities Code Section 130354.

jail construction, which if passed would preclude any additional sales tax increase since that would exceed the county's 7 ¼ percent statutory cap. With just two months before the election, the Commission voted to place a half-cent transit sales tax before the voters.¹⁵⁵

The new measure, dubbed the 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition, was an amalgam of the RTD proposal and the LACTC's earlier street and highway tax measure. This ordinance contained specific language directing how the revenue raised from the tax could be spent. Forty percent of the funds collected were to be used to improve and expand rail and bus transit service (none of which could be spent on the Metrorail MOS-1 or MOS-2 projects), to provide fare subsidies, and to increase energy-efficient, low-polluting public transit services.¹⁵⁶ Another 25 percent could be used to provide essential county-wide transit-related improvements to freeways and state highways through computerized traffic signal synchronization, Transportation System Management (TSM) systems such as tow service and emergency accident response teams, and developing so-called Smart Street corridors served by public transit.¹⁵⁷ Unlike Measure A, though, this proposition did not

¹⁵⁵Los Angeles County Ordinance No. 49, An Ordinance Establishing an Additional Retail Transaction and Use Tax in the County of Los Angeles for Public Transit Purposes, August 8, 1990. The vote was 7 to 3 with one absent. Supervisors Shabarum, Dana and Antonovich were opposed. Only Supervisor Edelman voted for the ordinance.

¹⁵⁶This funding pool is commonly referred to as the Proposition C 40% Discretionary Fund.

¹⁵⁷This fund is referred to as the Proposition C 25% Transit Improvements to Highway Fund.

guarantee any further fare reductions, a draft proposal to maintain transit fares at their current levels for three years having been deleted from the final version. As adopted, it only provided that funds *could* be used to subsidize fares.

Of the remainder, five percent would be devoted to expanding rail and bus security, while ten percent would be used to provide increased mobility and reduced congestion by funding commuter rail, transit centers, park-and-ride lots, and freeway bus stops. The final 20 percent was to be returned to local governments to fund local road improvements that would benefit transit. The allocation is summarized in Table 6.3. All funds collected and disbursed, including the local return funds, were, however, subject to being used for public transit purposes, which the ordinance defined broadly as expenditures which maintain, improve, and expand public transit; reduce congestion and increase mobility.¹⁵⁸

The measure appeared on the November 1990 ballot as Proposition C and was billed as a Transportation Congestion Relief measure. In support of Proposition C, the LACTC argued that Los Angeles County residents are drowning in a sea of gridlock and choking on dirty air. Since only limited funds would be made available for transit from the state gasoline tax increase, additional local funds would be necessary to meet the county's transit and highway needs. According to the LACTC, the measure would

¹⁵⁸Los Angeles County Ordinance No. 49, Section 3(d).

improve transit operation, reduce traffic congestion, improve air quality and reduce dependence on foreign oil.¹⁵⁹

The LACTC stressed that the sales tax increase was needed to operate intercounty and commuter rail service, meet state and local requirements for cleaner, fuel-efficient buses, and significantly, to speed the construction and operations of the 150-mile rail system.¹⁶⁰ Proposition C would, according to the LACTC, result in an integrated transportation network as the funds would be used to fund priority projects that were not otherwise funded by state, federal or Proposition A monies. In addition, they could be used for road projects on streets that would be heavily used by public transit.¹⁶¹

The campaign literature for Proposition C continued to press the need to expand the rail construction program:

Only with Prop. C can we quickly create a comprehensive transit system

¹⁵⁹LACTC, letter to the Mayor and City Council of the City of Los Angeles, August 10, 1990. In particular, the LACTC stated that the measure would:

[I]mprove and expand rail and bus transit services, enhance transit security, construct commuter rail, park and ride and bus transit facilities, improve the operation of major streets and freeways in those corridors served by transit, repair and maintain streets and roads utilized by public transit, and fund freeway enhance public transit service.

¹⁶⁰LACTC, Proposition C, 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition Fact Sheet, September 4, 1990.

¹⁶¹Los Angeles County Ordinance No. 49, Section 4(b).

for Los Angeles County providing urban rail, commuter rail, clean-fuel buses, ridesharing, and smart streets to stop congestion and promote mobility.

Within two years, Prop. C will bring 280 miles of commuter Rail into operation from San Bernardino through San Gabriel Valley, from the San Fernando Valley and Santa Clarita Valley and from Orange and Riverside Counties through Norwalk to downtown.

Prop. C will accelerate completion of the San Fernando Valley and Pasadena Rail systems. With Prop. C the Pasadena Line could be completed within five years and the Valley Line could be completed within eight years.¹⁶²

As it did with Proposition A, the LACTC argued that the tax was needed to provide local matching funds to qualify for state assistance. While promising that funds would not be used to cover cost overruns on the Hollywood portion of the Red Line, the LACTC proposed to use Prop C funds for a number of other rail projects including:

¹⁶²LACTC, Why Los Angeles County Needs Proposition C, September 12, 1990.

- (1) the Green Line northern and southern extensions to Marina de Rey and Torrance and the eastern section to Norwalk,
- (2) the San Fernando Red Line East/West extension to the I-405 Freeway,
- (3) the Blue Line downtown to USC/Exposition Park extension,
- (4) the Downtown Connector to Union Station, and
- (5) connecting Dodger Stadium to the regional rail system.

In addition, the LACTC suggested that Prop C funds could be used to develop commuter rail to Simi Valley and Santa Clarita Valley as well as constructing the LAX-Palmdale high-speed rail project along the I-405 freeway median.

On election night, Prop C squeezed out a narrow victory, winning by less than 15,000 votes. The rail and bus transit portion of the revenues collected under the ordinance, termed the Prop C 40% Discretionary Fund, were to be used to improve and expand rail and bus County-wide, to provide fare subsidies, increase graffiti prevention and removal, and increase energy-efficient, low-polluting public transit service. The guidelines for allocating the Prop C 40% Discretionary Funds, developed by the LACTC, provided four major eligibility groups: (1) Bus System Expansion projects, (2) Guideway System Expansion projects, (3) Service Quality and customer convenience projects, and (4) Mandated Program projects. The Commission retained authority to distribute funds to these programs as it saw fit. As rail construction costs soared, these funds would

increasingly be diverted toward the rail program and away from providing bus service. Despite passage of Prop C, it was becoming increasingly clear that the bus system operated too few buses and was becoming more and more crowded. Supervisor Hahn pressed the Commission to increase the bus fleet by 450 buses over five years at a cost of approximately \$170 million in capital costs and \$266 million for operating costs.¹⁶³

¹⁶³Letter from Kenneth Hahn to Neil Peterson, Executive Director, LACTC, December 19, 1990.

Table 6.3. Comparison of Propositions A and C

Proposition A	Proposition C
40% Discretionary	40% Discretionary
For public transit purposes	For public transit purposes (except for Metro Rail Project capital improvements between Union Station and Hollywood)
25% Local Return	20% Local Return
Allocated to cities by population	Allocated to cities by population
35% Transit	25% Transit Related Improvements to Highway
Construction and operation of rail transit system (after first three years)	Capital improvements related to the highway system, may not be used for operating bus or rail services
	10% Commuter Rail
	Restricted for commuter rail, transit centers and park and ride purposes Used as operating subsidy contribution to SCRRA (Metrolink) Monies may not be used for operating bus or urban rail services
	5% Security
	Restricted to transit securing operations and capital Nearly all allocated to bus and rail security

The 30-Year Plan

Proposition C succeeded in winning razor-thin voter approval by maintaining the shaky regional coalition in support of major rail transit improvements. In order to sustain that support, the LACTC began preparing a long term plan to identify specific highway and rail projects that would be undertaken. The 1989 Regional Mobility Element (RME) prepared by the Southern California Association of Governments (SCAG) projected an increase of over 30 percent in person trips for the county by 2010 which would worsen congestion on the region s highway and transit system. To address the deficiencies identified in the RME, in March 1991, LACTC staff presented the Board of Commissioners with three transit alternatives:

- 1) a baseline scenario, which included 33 rail projects, representing the minimum rail and bus investment already in existence or approved by the Commission,
- 2) an aggressive rail investment scenario with a moderate increase in bus service, and
- 3) an accelerated bus procurement program with less emphasis on rail development than recommended by its Bus Operations Subcommittee (BOS).

Conflicts broke out between the RTD and LACTC over the proposals. The RTD staff complained that the LACTC was withholding relevant data and models needed to evaluate the rail versus bus scenarios. They charged that the LACTC staff overestimated revenues from rail projects while understating costs and ignoring cost-effective options such as busways. RTD staff argued that buses generated higher fare revenues and carried more passengers requiring a much lower subsidy per passenger than rail.¹⁶⁴

By May, the Commission had zeroed in on a proposal that combined aspects of the aggressive rail strategy, with greater bus growth while the rail system was being constructed. The Bus Operations Subcommittee had recommended expanding the current 2,500 bus fleet by providing for 3800 peak buses by the year 2000, with an eventual fleet of 4,700 by 2010. The May 29, 1991 draft Plan scaled this back to 3600 by 2000, and 4,200 total buses.

In August 1991, a revised draft 30-Year Plan was unveiled containing fundable highway, bus and rail improvements, totaling \$139.2 billion. Another \$20.5 billion worth of improvements, without currently available funding sources, was also recommended for a total of \$158.4 billion. It also proposed an even smaller increase in the bus fleet to 3900 buses by 2010. During the public comment period, concerns were raised over the

¹⁶⁴RTD, letter to LACTC Board of Directors, LACTC 30-Year Plan, March 5, 1991.

relatively low level of both bus and rail investments and that some areas would not receive an equitable share of transportation investment. Several local jurisdictions urged restoration of six additional rail projects from the aggressive rail strategy, that were part of the promised Prop A system and would benefit their areas. On the other side, the RTD staff was especially critical of the proposal, arguing it gave equal funding to bus and rail projects, even though buses carry far more passengers.¹⁶⁵ RTD staff also questioned LACTC staff ridership forecasts and the failure to include more cost effective alternatives to rail in its presentations to the Commission. In response to the August 1991 draft, the RTD staff developed its own "Transit Now" alternative, which called for adding 150 new buses per year for five years. The RTD urged adoption of four main principles:

- " Recognition of bus service as the key component of the future transit system
- " A consistently high level of service quality on both bus and rail systems
- " Safety levels, cleanliness, and loading (crowding) standards must be comparable for all transit modes
- " Equity in the provision of the same quality, quantity, and types of service must be a priority.

¹⁶⁵Rail funding would in fact receive 57.4 percent of total net spending, while carrying less than 20 percent of all passengers by 2020. As a result, the total subsidy per passenger for rail would be \$13.72 compared to only \$1.82 for buses. Put another way, buses would return 84.9 percent of their costs in farebox revenues compared to only 15.1 percent for rail.

The RTD staff pointed out that projected sales tax revenues were declining due to the statewide recession and insisted that all rail projects should be cost-effective and efficient to help ensure that projects that are needed, not just desired, will be built.¹⁶⁶

The LACTC staff charged that this "Transit Now" proposal would delay their rail program by six years, but the RTD staff responded that the LACTC had prejudged the need for rail in the Candidate Corridors without allowing for alternative modes to be considered. Staff from both the LACTC and the RTD worked with Supervisor Hahn's office to reach an acceptable compromise. As a result, the LACTC agreed to expand the bus fleet by 100 per year over six years and agreed to work with Supervisor Hahn's office to improve existing bus service, including restoring deferred capital improvements. The LACTC also agreed to consider alternatives to rail in the six designated Candidate Corridors.

The final 30-Year Plan, adopted in April 1992, called for a program of urban rail lines in the densest, most congested corridors, commuter rail for long-distance travel, buses for access to and from rail stations, local circulation, and express transit service in non-rail corridors, new HOV lanes for carpools and express buses and closing existing gaps in the freeway system. The plan presented three potential rail scenarios: a Fundable Plan, and Expanded Plan, and an Unconstrained Plan. The Fundable Plan included

¹⁶⁶RTD, staff report, "Consider General Manager's Report Concerning a 'Transit Now' Alternative to the LACTC's Draft 30-Year Integrated Transportation Plan," November 15, 1991.

200 miles of urban rail and 200 miles of rail projects either completed, under construction or considered fundable.¹⁶⁷ In addition, to satisfy various local jurisdictions, eight additional rail projects from the Candidate Corridor list were added, including:

- (1) the San Fernando Valley East-West project (Sepulveda to Canoga Park),
- (2) the Burbank-Glendale-Pasadena Airport Corridor project,
- (3) the Exposition Boulevard Corridor project (USC to Santa Monica),
- (4) the South Coast project (El Segundo to Torrance),
- (5) the Green Line east extension to the Orange County Rail Connection
- (6) the Green Line west extension (LAX to Westchester)
- (7) the Pasadena Blue Line extension (Sierra Madre Villa to Azusa), and
- (8) the Route 60 Corridor (San Gabriel Valley).¹⁶⁸

¹⁶⁷The committed rail projects, those where funding and political support were in place, consisted of the Metrolink project, the Red, Blue and Green Lines, including the Green Line western extension, the Red Line San Fernando Valley East-West Transit Project extension to Sepulveda Boulevard, the Orange Line east and west extensions, the Pasadena Blue Line extension, the Blue Line Downtown Connector and the Union Station to Exposition project.

¹⁶⁸RTD, Planning and Mobility Improvement Committee staff report, Comprehensive Approach to 30-Year Plan, August 21, 1991. While staff provided some information to the Board to evaluate the 14 potential rail lines, it did not include any detailed analysis or alternatives. In fact, staff indicated that:

The subjective nature of most criteria underscores the fact that no formula or calculation can produce a conclusive answer as to how these projects should be prioritized. However, these criteria capture in an approximate fashion the important considerations involved in evaluating the potential effectiveness of rail lines.

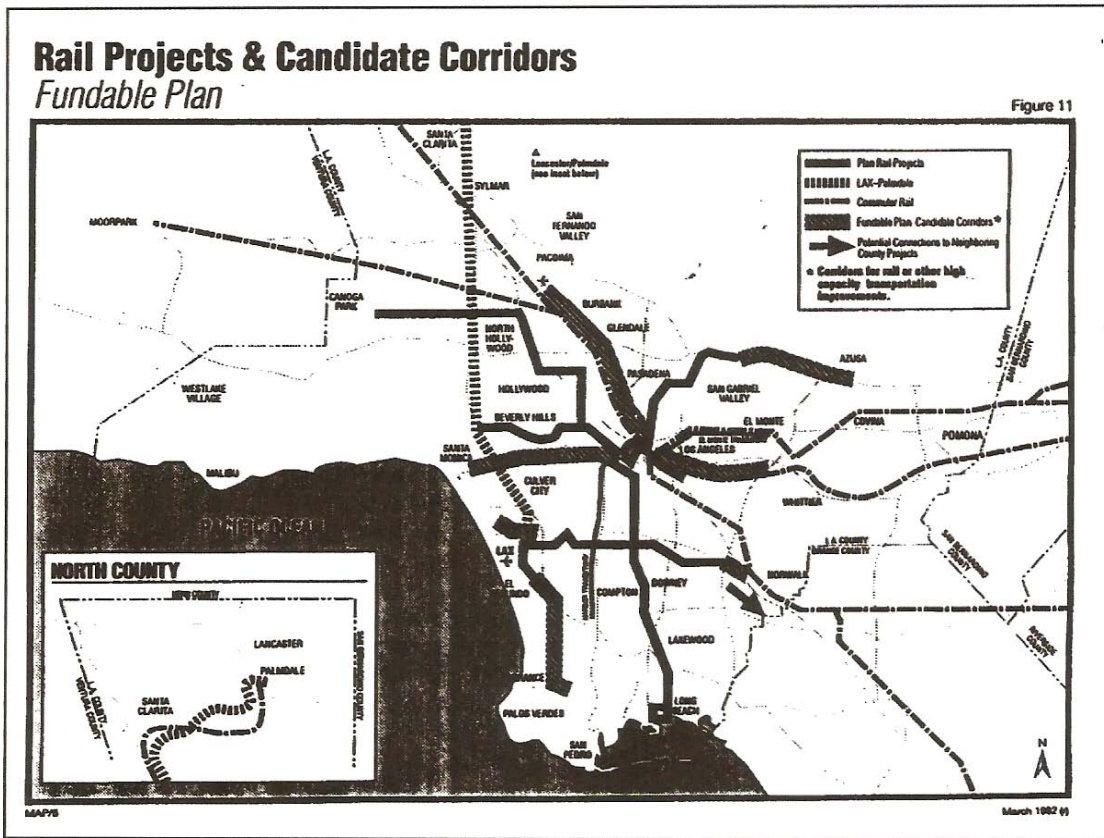
The criteria included: Project capital and operating costs estimates; year 2010 patronage estimate; cost per trip; demographics; [project history/status; planned transportation improvements; impacts on rest of system; adequacy of existing transit; and local funding commitment.

Local jurisdictions would be expected to contribute at least 20 percent of the projected costs, though specific mode choices would be left for later evaluation. This Fundable Plan assumed revenue from existing funding sources would increase at the rate of inflation and also presumed passage of the proposed 1992 and 1994 state rail bond issues, but no other tax increases (see Figure 6.17). One other notable addition to the original list of projects was made: a light rail line connecting LAX and Palmdale, intended to be in part privately financed. This 69-mile project was expected to carry 68,000 daily passengers. Other potential projects included the Burbank monorail project, and a connecting link to Dodger Stadium from the Pasadena Blue Line.

Though the Plan retained bus expansion during the first phase of rail construction, this would slow once the various rail lines became operational. After 2001, the fleet would grow to just 3,650 by 2011, and top out at 3,900 by 2021 (see Figure 6.17). This would include a 50 percent expansion in express bus service, operating on 300 miles of proposed new carpool lanes. The total projected program cost for the Fundable Plan was \$183 billion.¹⁶⁹

¹⁶⁹Equivalent to \$254 billion in 2004 dollars. Of the \$183.1 billion in projected costs in the Fundable Plan, \$108.1 billion was budgeted for projects with existing funding commitments. Of these funds, \$39.3 billion were for completing the Red, Blue, Orange and Green lines rail projects and \$54 billion for maintaining existing buses. The Red line was identified as the highest priority rail transit project in Los Angeles county and a key component of the overall rail transit element of the plan. The estimated cost to complete the 29.0 mile Red Line was approximately \$5.35 billion. The remainder were for highway improvements and TDM projects. Another \$75 billion in planned projects was based on projected financial capacity. These contained \$38.9 billion for Candidate Corridor rail projects and \$18.7 billion to expand the bus fleet and purchase electric and clean-fuel vehicles. The local share of these costs was \$135.9 billion (74%) while the Federal and state shares were \$31.5 (17%) and \$15.1 (8%) respectively. The Plan called for LACTC to
(continued...)

Figure 6.17. Fundable Plan, LACTC 30-Year Plan



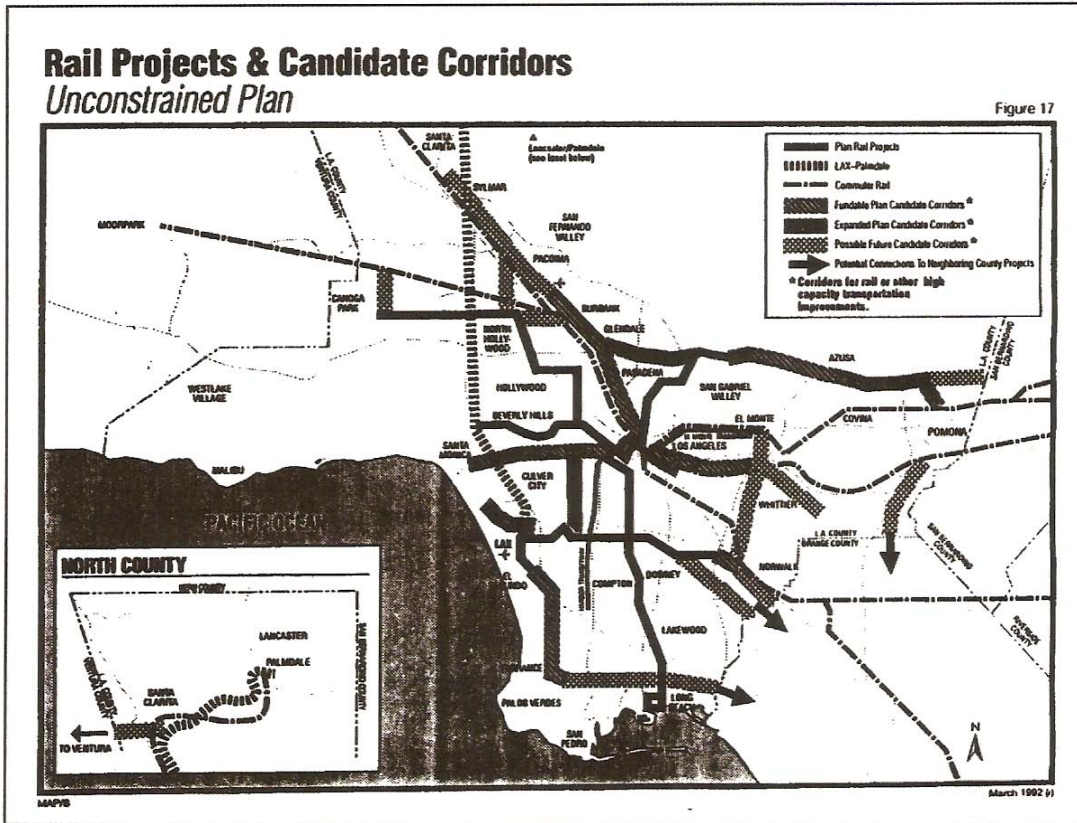
Source: LACTC 30-Year Integrated Transportation Plan.

¹⁶⁹(...continued)

establish a Program Reserve of \$247 million to cover cost overruns on rail transit projects through the year 2001. Were all that not enough, the Plan also included a \$502 million commitment to the Alameda Corridor freight rail project, a massive program to grade separate commercial rail lines between downtown Los Angeles and Long Beach.

While the Fundable Plan assumed future financial and in-kind contributions from local jurisdictions, it did not provide for what the LACTC considered to be all needed highway, bus and rail projects. So in addition to the Fundable Plan, there was an Expanded Plan covering five additional rail projects and new HOV facilities in the second and third decades to be funded through anticipated revenues from federal gasoline taxes and additional state rail bonds. As shown in Figure 6.18, the Expanded Plan provided in addition to all of the Candidate Corridor projects in the Fundable Plan: a connector line linking Burbank, Glendale, and Pasadena; connecting the Exposition (Orange Line) and Green lines along the Crenshaw Corridor; extending the Pasadena Blue Line to the Pomona Valley; and extending the Green Line from Westchester to Marina Del Rey.

Figure 6.19. Unconstrained Plan, LACTC 30-Year Plan



Source: LACTC 30-Year Integrated Transportation Plan.

The 30-Year Plan stated that it was intended to provide a balanced, integrated transportation system that would increase transportation alternatives and significantly improve mobility.¹⁷⁰ It would improve access to job markets, education and recreational

¹⁷⁰LACTC 30-Year Integrated Transportation Plan.

facilities, as well as providing significant economic benefits for the region. The LACTC warned that without these measures rush hour speeds on freeways would decrease 10 m.p.h. by the year 2010, but promised to reverse the trend by providing convenient and safe transportation alternatives that would reduce travel times by 50 percent. The Plan promised to consider equity with respect to the cost and quality of service and access to service in all program decisions, and to prepare a progress report each year. It also contained a 10-year implementation program beginning in fiscal year 1991-92, and a commitment that the entire Plan would be updated every year and completely reviewed every two years.

The 30-Year Plan contained something for almost everyone. It promised expanded bus service, and contained hundreds of miles of new highway, bus and high capacity rail projects.¹⁷¹ The plan proposed expanding the bus fleet by over 50 percent¹⁷² from approximately 2500 buses to 3900 in 2010, including 600 in the first six years of the plan. This was touted as a significant difference from other areas building rail systems

¹⁷¹The Rail component of the 30-Year Plan identified a 400 mile system consisting of 200 miles of urban rail and 200 miles of commuter rail, 300 miles of which would be operational within six years. In a portent of problems to come, though, the Plan noted that due to recession-related shortfalls in revenue the projected completion of the Pasadena light rail project would be delayed for two years, though a preliminary segment could be in operation by July 1996.

¹⁷²LACTC staff had originally recommended a modified version of the BOS alternative which incorporated greater bus expansion (1700 additional peak buses by 2010 or 68 percent) in the early years while the rail system was being constructed, but several local jurisdictions objected to the absence of various potential rail projects from the draft, and some even offered to contribute funds toward these projects. When the LACTC agreed to add six Candidate Corridor rail projects, the number of new buses was reduced due to compensate for the added cost of the rail projects.

where, it was noted, the bus fleets had typically been reduced instead of increased with the introduction of rail. Besides the 1400 additional peak period buses added, 400 high capacity electric trolley buses and 300 miles of electrified facilities, would be added over the life of the Plan.¹⁷³ By 2004, the entire fleet would be either electric or clean-fueled. There would be new express bus service on additional carpool lanes and more buses to relieve overcrowding in congested corridors, along with expanded feeder service to rail stations. Finally, the plan contained a Transportation Demand Management (TDM) program including measures to encourage ridesharing, flexible work hours, telecommuting, and other trip-reduction programs. These strategies were intended to divert an additional 3 to 4 percent of peak period work trips to transit, which added to the projected 10.5 percent mode split from the bus and rail improvement programs, in order to meet the 45.7 percent peak period work trip goal established in SCAG's 1989 Regional Mobility Plan.

The plan counted heavily on continued federal funding under ISTEA¹⁷⁴ over the 30 year life of the plan. The Commission directed its staff to begin securing funds to

¹⁷³The SCAG 1991 Air Quality Management Plan required that 30% of the county's bus fleet be electrified by the year 2010.

¹⁷⁴Intermodal Surface Transportation Act of 1991. In addition to local sources, the Plan counted heavily on ISTEA funds to complete the project. A total of \$210 million in Federal Aid Urban (FAU) program funds and \$670 million in ISTEA funds per year over the life of the plan were assumed. These would be split 62 percent for highway and TDM and 38 percent for bus and rail use. It also assumed passage of two pending state rail bond issues, to fund \$1.05 billion in rail projects, and that the maximum amount of revenue bonds would be issued by the Commission, to be paid with Proposition A and C revenues.

implement the Fundable Plan and to aggressively pursue additional federal and state revenue sources for the Expanded Plan. Staff was also directed to study the feasibility of implementing a systemwide farebox recovery ratio goal to improve cost effectiveness.

The 30-Year plan was called the largest public works project in the U.S. Ambitious, but ultimately unrealistic, it served the political needs in the region. It reflected, but also explicitly deferred resolving, the continuing bus vs. rail debate. In it, buses were seen as an intermediate solution; a flexible and inexpensive alternative to automobile travel, providing local service in corridors not yet served by rail. But the MTA made it clear that their effectiveness would ultimately become limited by increasing traffic congestion and that rail lines would be necessary. Rail, the MTA insisted, was preferred despite its high capital cost since it could operate two to three times faster and serve dense, heavily traveled corridors with greater safety and reliability and at much higher capacities than buses. (Recall the old PE s unsuccessful plans to use buses only until demand justified building rail lines. Too bad they didn t have a guaranteed source of tax revenues!)

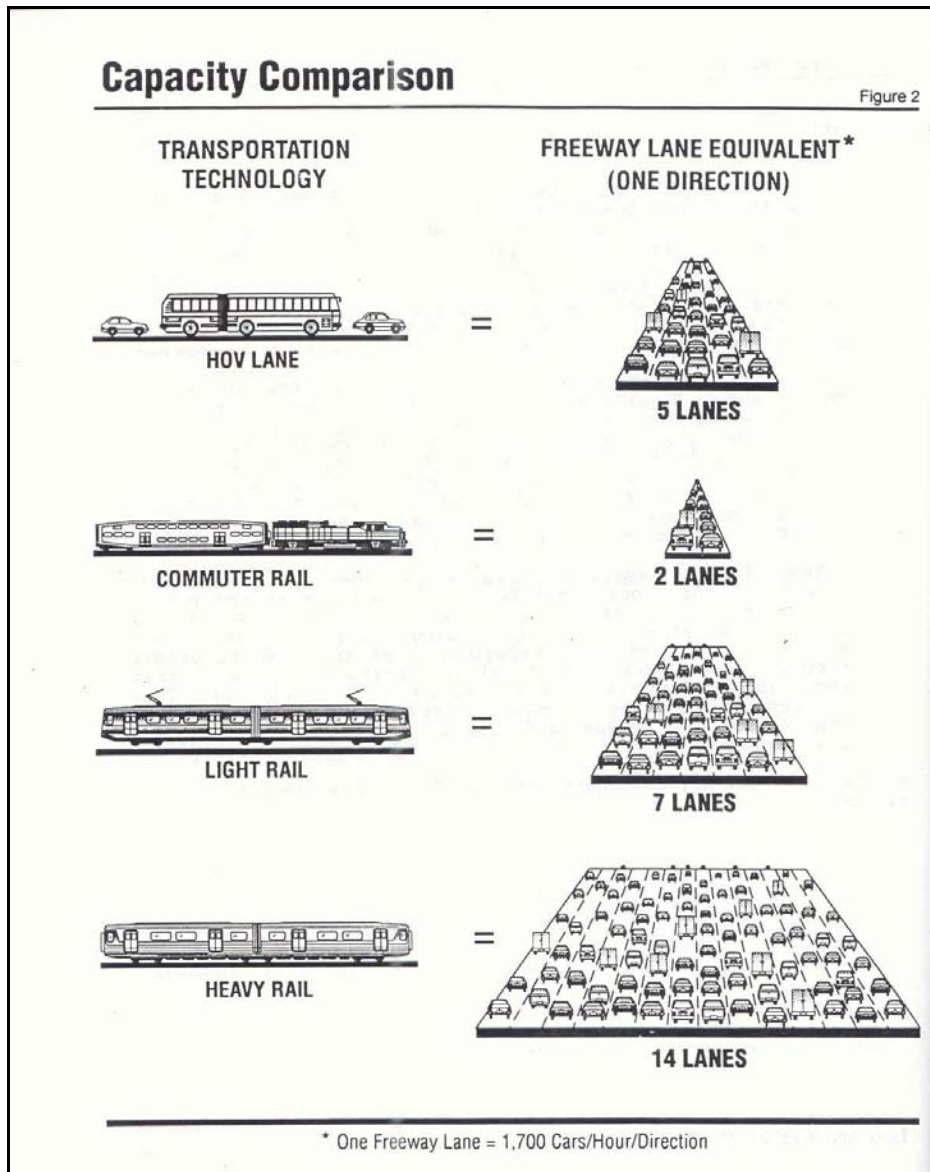
The plan leaned heavily on rail solutions to ease freeway congestion. LACTC planners promoted heavy rail as having the greatest capacity to move commuters, equivalent to 14 lanes of freeway, followed by light rail, commuter rail, and HOV lanes. Fixed rail, according the LACTC also had greater potential to increase service without

increasing congestion, compared to buses. Again according to the LACTC, one hour of service with commuter rail would provide the equivalent service of 60 buses, while light rail would equal 230 buses and heavy rail, 480 buses (see Figure 6.20). Despite promises to increase the bus fleet, the 30-Year plan locked the LACTC into building nearly all of the Prop A system, based on what turned out to be wildly optimistic forecasts of future revenues, leaving no money for bus improvements.

In a review of the 30-Year plan, Richmond laid much of the blame for the deficiencies in the Plan on the agency's own fragmented planning process. The LACTC had a horizontal management structure organized around six Area Teams, each responsible for producing rail plans for their corridor. As a result the Plan had little objective evaluation of the merits of particular projects nor any overall discussion of regional goals. The plan was mainly a financial proposal of how to pay for the list of rail projects with no prioritization for funding or any real coordination with the bus system.¹⁷⁵ In a short time, a weak economy leading to reductions in revenues and massive cost overruns would bring those deficiencies to the forefront.

¹⁷⁵Richmond (1993).

Figure 6.20. Capacity Comparison



Source: LACTC, 30-Year Intergrated Transportation Plan, April 1992, p. 18, Figure 2.

Conclusion

Throughout the 1980s, the centrists at the RTD pursued its subway project linking downtown, Miracle Mile, Hollywood, and the San Fernando Valley. The LACTC Board, dominated by County rather than Los Angeles City interests viewed the RTD and its subway as pursuing a parochial agenda which failed to serve the broader interests of the entire region. To many of the new regionalists in the LACTC the downtown subway project was a product of old technology, and worse, outmoded politics. With the passage of Prop A and Prop C, the LACTC was poised to create a truly modern, truly *regional* rail systems for Southern California. Tragically, the same month as the LACTC published its 30-Year Plan, Los Angeles experienced major social unrest that would once again spotlight the social conditions in the inner city and bring transit issues affecting poor and minority riders back to the center of public consciousness in the debate between bus service and rail expansion. This and other events would soon unravel the LACTC's well-laid plans.

CHAPTER SEVEN: TRANSIT, POVERTY, AND CIVIL RIGHTS II, 1991-1995

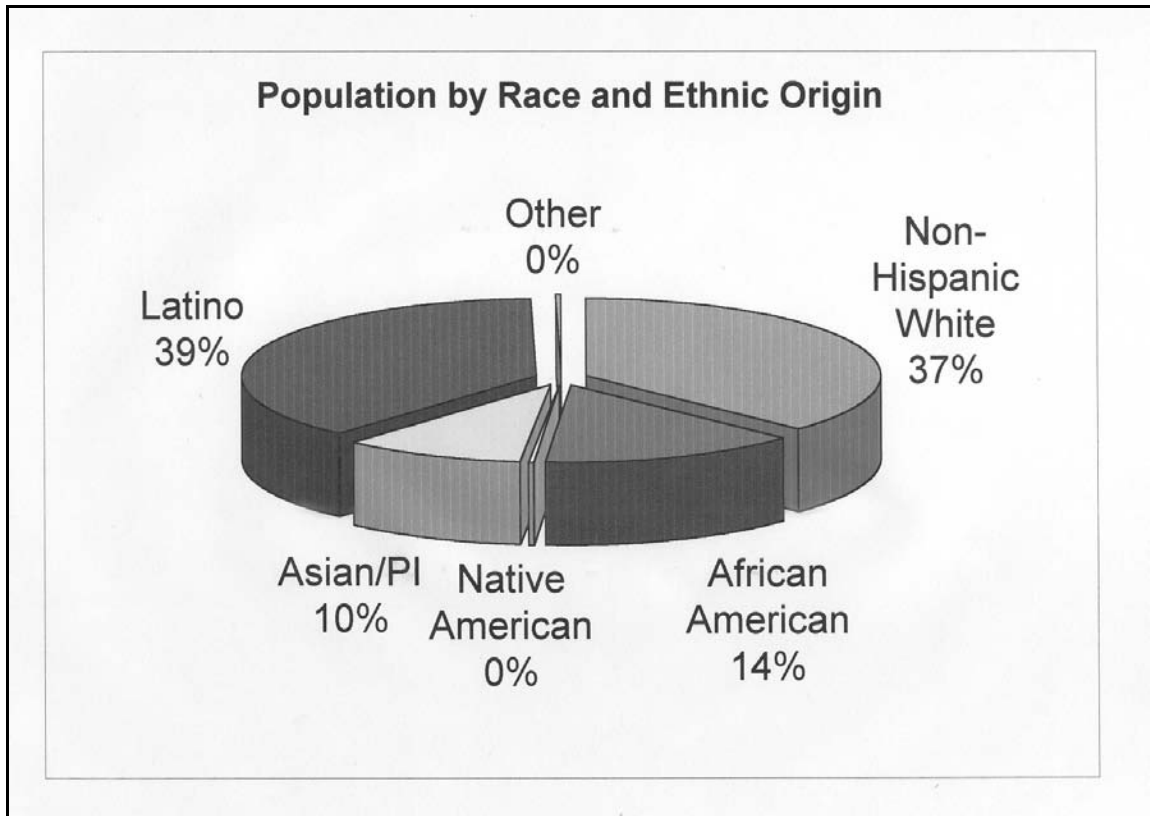
In 1965, a routine traffic stop by a California Highway Patrol officer near the community of Watts resulted in the worst civil unrest Los Angeles had seen up to that time.

Ironically, another confrontation between a black motorist and police in 1991 precipitated yet another urban uprising. The beating arrest of motorist Rodney King, and the subsequent acquittal of four white police officers involved in the incident sparked several days and nights of rioting, looting and store burnings. African American residents of the inner city, this time joined by groups of Latinos, targeted mostly Asian-owned stores and beat white passersby unfortunate enough to be caught in the wrong place at the wrong time. The causes of the unrest were at least as complex as those that had produced the Watts riots three decades earlier, and in many cases stemmed from the same root problems. There were however, significant differences. Los Angeles in the 1990s was a dramatically different place than it had been in the 1960s.

One thing that had changed was the city's racial composition. The African American population has declined slightly as a proportion of the overall city populations

while the number of Latinos and Asians had risen dramatically. From 1970 through 1990, the Latino population went from 25 percent of the population of Los Angeles to roughly 39 percent and the Asian population more than doubled to 12 percent. The African American population declined somewhat from 18 to 14 percent while the white non-Hispanic population declined from 48 percent in 1970 to 37 percent in 1990 (see Figure 7.1).

Figure 7.1. Population of the City of Los Angeles, 1990



Source: 1990 U.S. Census.

The spatial distribution of population had also shifted over the decades. Watts and neighboring communities, once the center of African American culture in Los Angeles, experienced a massive influx of Latino immigrants, pushing many previous residents further west and north. Asian immigrants established major communities in the Downtown Core area, and satellites in Monterey Park and Gardena. Many also became

small business proprietors in black and Latino communities. Whites became increasingly concentrated in the Westside (particularly along the Wilshire Corridor and the Beach Communities), and the West San Fernando Valley as Latinos moved into the East Valley. Areas with high concentrations of minority residents also tended to have high population densities and low average incomes, reflecting the shift in employment to a service economy.¹ The increasingly multiracial and multiethnic character of the city has created new social tensions and exacerbated old ones, but it also opened up new possibilities for political coalitions to take shape around shared issues of social justice, the formation of the Bus Riders Union being but one example.

Despite the changes, the residents of South Central and East Los Angeles are still among the poorest in the county, and disproportionately dependent on local transit service. A study undertaken 20 years after the Watts Riots concluded that conditions were in many respects as bad as or worse than they had been in 1965. Some progress was noted in improving transportation since the McCone Commission report, described in Chapter Five, was released. The RTD now received federal, state and local subsidies, and had succeeded in consolidating many of the previous small local transit providers and executed transfer agreements with the rest. The grid system, inaugurated in 1974, had

¹LACTC, Los Angeles Transportation/Land Use Policy, Background Report, December, 1991.

reduced the need for multiple crosstown transfers.²

Fares and service, however, were still a concern. Despite revenue shortfalls in mid- 80s following the end of the Reduced Fare Program, the RTD had maintained service without resorting to any further fare increases. By FY 1988-89, however, the District had chosen to raise base cash fares from \$0.85 to \$1.10 in order to balance the agency's budget, though it also began offering \$0.90 discount tickets. (The tickets were priced under \$1.00 to cut down on the use of dollar bills as fare payment and thus save costs.) The Elderly/Disabled (E/D) cash fare was raised to \$0.55 with a discount \$0.45 E/D ticket.³ Transfer prices were increased from \$0.10 to \$0.25, the express surcharge rose from \$0.35 to \$0.40 per zone, and regular pass prices went from \$32 to \$42.⁴ Increases in student, and elderly and disabled passes⁵ were also instituted. As a result of these changes, the average cash fare nominally increased 30 percent and the average pass user's cost went up 39 percent.

²Los Angeles County Commission on Human Relations and Los Angeles City Human Relations Commission, *McCone Revisited: A Focus on Solutions to Continuing Problems in South Central Los Angeles*, January 1985.

³The elderly and disabled must receive at least a 50% discount in off-peak hours to comply with Federal mandates. The MTA does not charge a premium for peak service so E/D cash and ticket fares were set at 50 percent of regular fares. In addition, free rides were made available to children under 5 years of age, blind persons, RTD employees and their dependents, uniformed officers, and to all riders boarding a bus that was over 15 minutes late.

⁴The pass price was set based on a price multiple of 37.6 times the base fare.

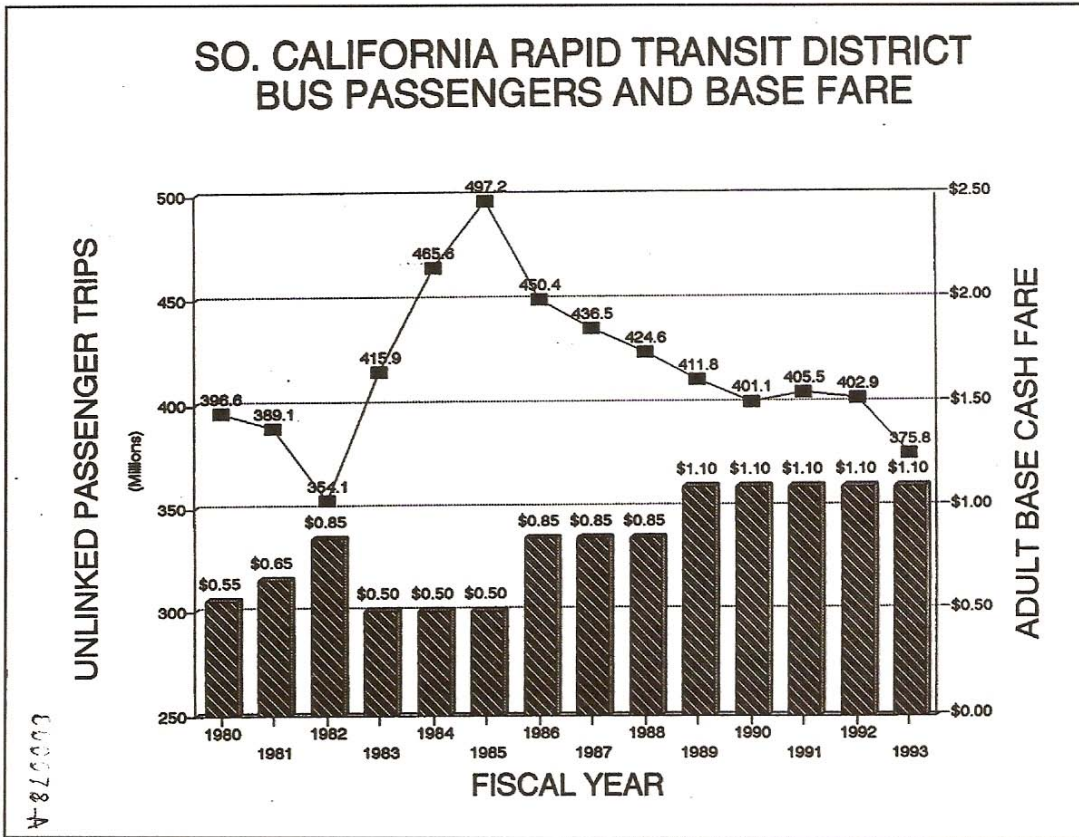
⁵The senior pass was deeply discounted to \$10 and many seniors paid only \$4 through buy-downs made available by local jurisdictions using local return funds.

With the higher fares, bus ridership continued to decline, in spite of overall growth in population,⁶ particularly among the poor and other transit-dependent persons (see Figure 7.2).⁷ Bus patronage fell 19 percent to 401 million passengers in FY 1990 from an overall from the peak in FY 1985 of nearly 500 million. Ridership rebounded some in FY 1991 and FY 1992, with the inauguration of service on the Blue Line, but several bus lines serving minority areas were either eliminated or rerouted to serve as feeders for the Blue Line. By Fy 1992-93, ridership fell to just 375.8 million.

⁶From 1985 to 1992, the county population increased 13% from 7,953,000 to 8,989,000.

⁷Rubin (1994). As of 1991, three-fourths of all bus riders were minority: 45 percent Hispanic, 22 percent black, 8 percent Asian and 1 percent Native American. More than half (57%) were female, and over half (54%) had household incomes below \$15,000 while another 25% had incomes between \$15,000 and \$30,000. A total of 41% of all bus riders had no other means of transportation. RTD memo, Review of Various Alternative Fare Structures, September 17, 1992.

Figure 7.2. RTD Bus Fares and Ridership



Source: MTA, A Look at the Los Angeles County Metropolitan Transportation Authority, January 1994.

The Aftermath of the 1992 Civil Disturbances

As a result of the civil unrest between April 29 and May 1, 1992 in response to the Rodney King verdicts, the lack of adequate and affordable innercity transit was once again in the spotlight. The property destruction that took place made shopping and employment opportunities in the inner city even more limited than before. Local transportation officials once again responded by putting forward a number of proposals to address underlying transit needs in the community. The RTD Board immediately authorized a temporary reduced fare program in part to assist those affected by the disturbances, as well as to attract new patrons. The District instituted a \$0.50 discount ticket program, effectively reducing fares back to 1985 levels. To deal with the expected increase in ridership and revenue losses, the District requested additional subsidies from the LACTC.

Supervisor Kenneth Hahn promised \$2 million in Proposition A subsidies to help pay the cost of reduced fares and expand service. Federal Transit Administration (FTA) officials publically expressed interest in funding a portion of the cost of the four-month program Hahn initiated, in part to increase transit ridership and achieve air quality benefits and traffic congestion relief, but ultimately never contributed any money.⁸ The District projected that an additional four million patrons would use the system. As the

⁸On November 4, 1992, President Bush vetoed the Urban Aid Tax Bill, H.R. 11, which would have allowed the District to apply for reimbursement through the Department of Labor for the cost of a reduced fare program to increase access for inner city residents. RTD Memo to Board of Directors, Final Report on the Four-Month Reduced Ticket Program, January 20, 1994.

staff explained, For a fraction of the costs of a new rail line, the reduced fare program could add up to 40,000 additional daily riders to the transit system.⁹ The program proved to be popular, particularly with current cash and pass users but failed to attract many new riders to the system. In all, the program cost the District just over \$10 million.

The RTD also called for formation of a Transit Corridor Development Corporation (TCDC) to help guide the rebuilding of South Central by concentrating available resources in local transit corridors. The proposal was an expanded version of its L.A. Millennium Project designed to renew the economy and reduce traffic congestion by forming a non-profit corporation that would partner with private firms to manufacture transit vehicles in Los Angeles County. The TCDC would identify transit corridors providing direct linkages to and from the area to employment and housing locations as well as direct connections to planned rail capital improvements. These corridors would become transit enterprise zones that could be eligible for special grants to write down land costs and fund other transit-related improvements, such as exclusive bus lanes, sidewalk and pedestrian improvements and business investment sites and opportunities.

The LACTC too, responded to the civil unrest. Staff suggested that completing the agency's 30-Year Plan would be the best means to revitalize Los Angeles, and recommended that the LACTC should accelerate Metro Rail construction to improve

⁹RTD memo to Board of Directors, Reduced Fare Program Status Report No. 2, June 5, 1992.

mobility and increase employment opportunities. They also suggested that the agency participate in the efforts of Rebuild LA, the organization created to funnel private investment capital into the inner city, by, among other things, acquiring damaged properties around transit stations for redevelopment. Staff also recommended moving ahead on transit proposals for the Crenshaw area, one of the focal points for the disturbances, and reevaluating bus service in South Central Los Angeles using market management techniques.¹⁰

The LACTC Board agreed to expedite completion of the Crenshaw-Prairie Transportation Corridor Study as a way to use transit infrastructure investment to stimulate economic development and urban recovery.¹¹ Crenshaw Boulevard, as previously noted, is a major north-south artery running through South Central Los Angeles past the Crenshaw Mall, one of the few major shopping centers in the area. Prairie Avenue runs parallel to Crenshaw on the west and passes by a number of regional destinations, including Hollywood Park, the Forum, and the Hawthorne Plaza Mall. Approximately 16 percent of all households in the Crenshaw/Prairie Corridor in 1990 had no automobile and 17 percent of all workers used public transit as their primary transportation to work. A total of 14 percent of all households had income below the

¹⁰LACTC, memo to Planning and Mobility Improvement Committee, LACTC Transportation Infrastructure Revitalization and Acceleration Program, May 6, 1992.

¹¹MTA, memo to Planning and Programming Committee, Crenshaw-Prairie Corridor Planning Study, January 4, 1994.

poverty level compared to 12 percent countywide.¹²

The Board directed that the Crenshaw-Prairie Corridor as shown in Figure 7.3 be added to the list of Candidate Corridors identified in the 30-Year Plan. Unlike the other corridors though, planning for the Crenshaw/Prairie Corridor was specifically charged with combining improved mobility with economic development.¹³ Three alternatives were identified and considered in a Preliminary Planning Study completed in October 1994. Two involved subway and overhead light rail options running from the proposed Pico/San Vicente Orange Line station to El Segundo Boulevard, providing transfer access to the Green Line at Hawthorne/Imperial. The third covered much the same route to Inglewood but then continued southwest to terminate at the Transit Center at LAX. The study concluded that rail transit improvements in this corridor could improve access to employment opportunities for inner city residents by linking major employment and activity centers, as well as providing construction jobs. In addition, the study suggested that local redevelopment efforts could be focused on land around transit stations.¹⁴ There were no funds specifically allocated for this project, but due to the interest in economic development, the agency considered pursuing additional funding options for the corridor.

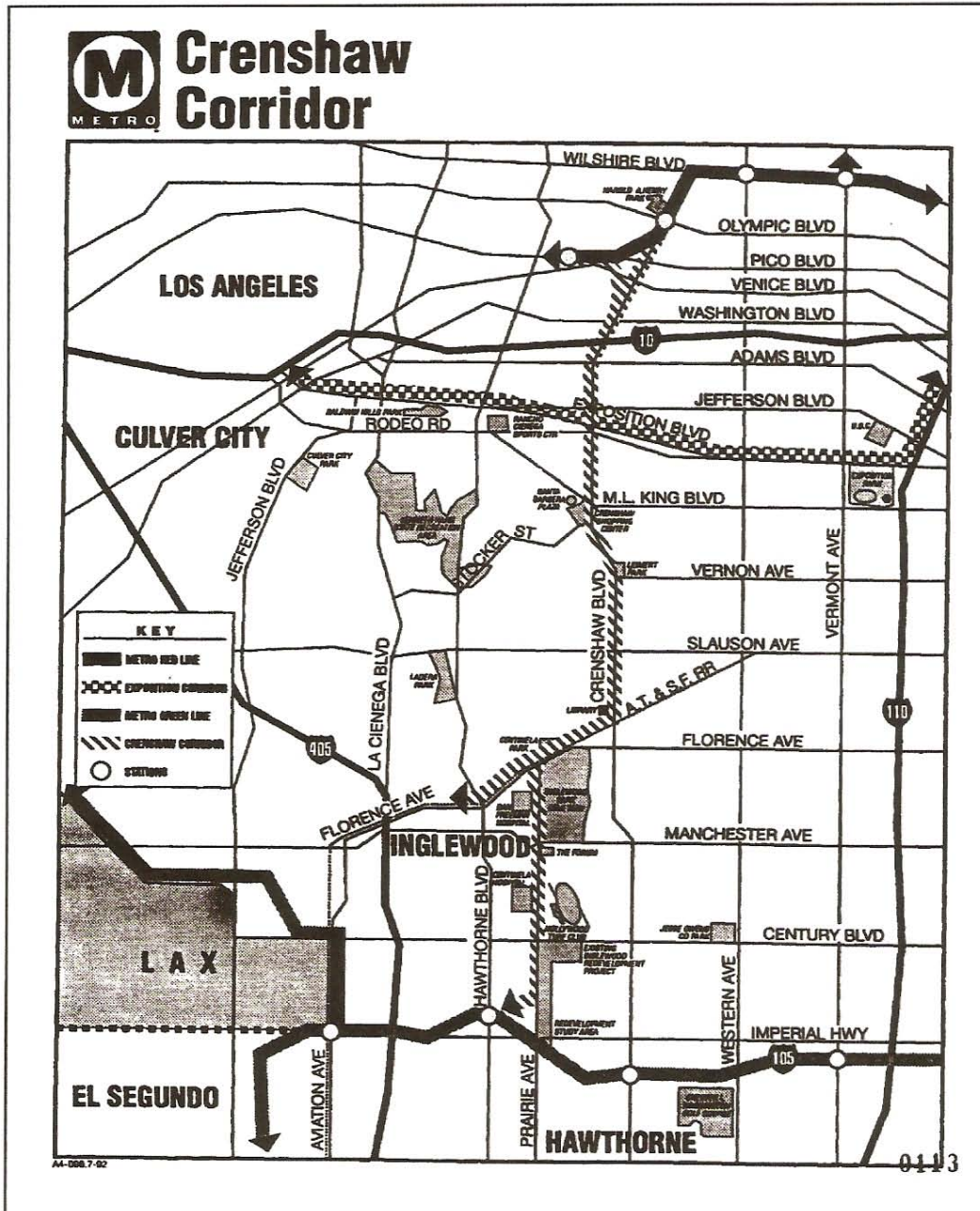
¹²MTA, Crenshaw/Prairie Corridor Preliminary Planning Study, Draft Final Report, December 23, 1993, page 117.

¹³MTA, Crenshaw/Prairie Corridor Preliminary Planning Study, Draft Final Report, December 23, 1993, page 116.

¹⁴MTA, Crenshaw/Prairie Corridor Preliminary Planning Study, Draft Final Report, December 23, 1993.

Shortly, however, the Crenshaw/Prairie Corridor project would fall victim to the agency's worsening financial problems.

Figure 7.3. Crenshaw Corridor



Source: MTA, Crenshaw-Prairie Corridor Planning Study, 1994.

The Inner City Transit Needs Assessment Study

Following the disturbances, Los Angeles City Councilman Mark Ridley-Thomas also questioned the quality of transportation services provided to residents of the central city. At the request of Mayor Tom Bradley, the LACTC agreed to fund a study of unmet transit needs in the central city area shown on Figure 7.4, and to address service quality and accessibility issues. The area contained 7.3 percent of the county population but 12.0 percent of families below poverty and 11.9 percent of zero-automobile households. Working with the offices of County Supervisor Yvonne Brathwaite-Burke and State Senator Diane Watson, the consultants completed their report in July 1993.

The Inner City Transit Needs Assessment determined that a significant need for transit service improvements existed but that the problems experienced, including bus overcrowding and uneven service, were not strictly inner city problems. Nevertheless, because of the high transit dependency in the study area, the authors concluded that service delivery problems there had more severe impact than in other areas. The study identified a need for more limited stop service in high demand bus corridors, a cross-town (diagonal) bus line and community-based shuttle service. The planned Harbor Freeway Transitway and the Green Line which would run along the edges of the study area were projected to provide some service to residents.

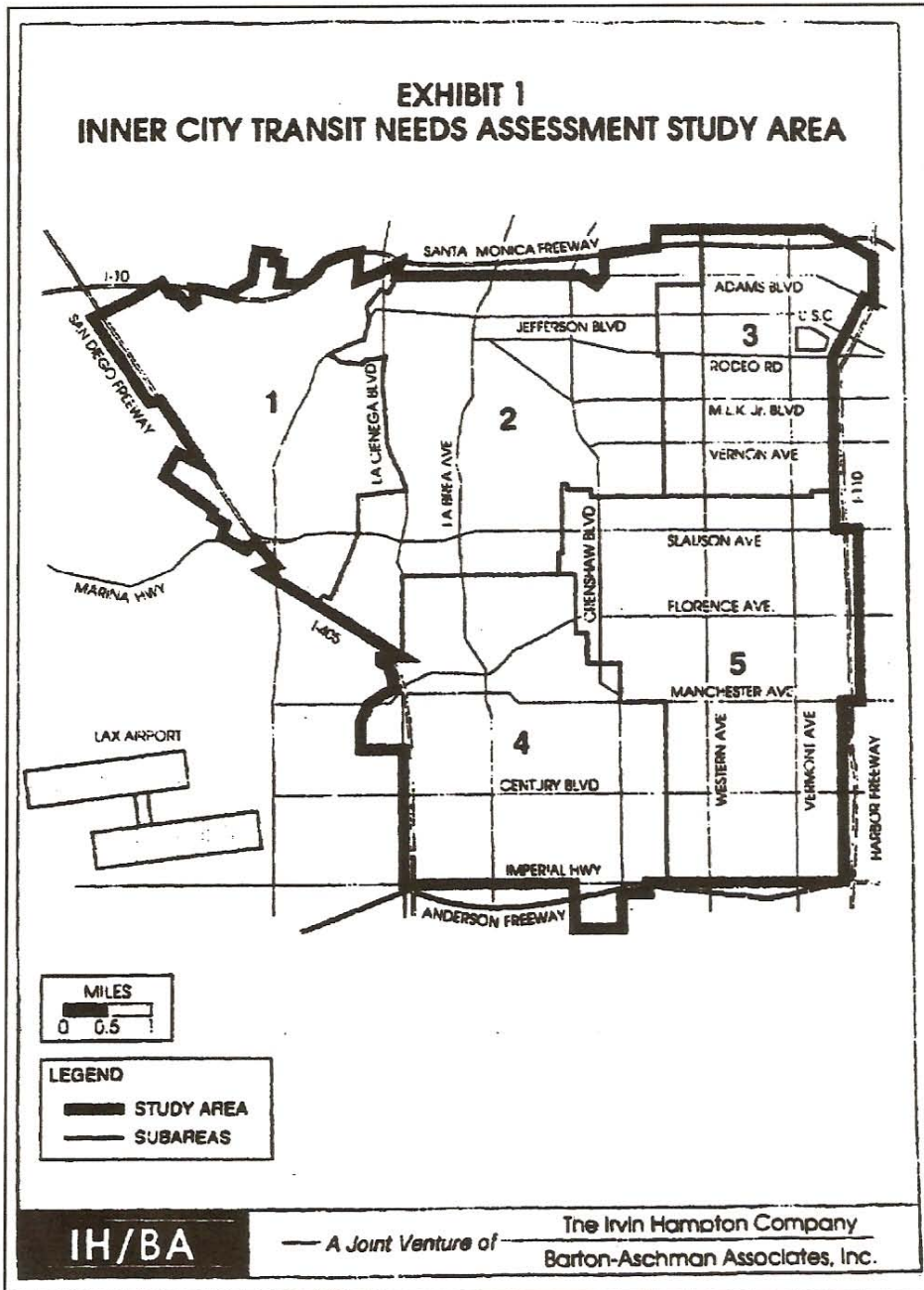
The unmet needs in the inner city identified by the study included:

- " overcrowding relief
- " more direct and faster service to major employment centers
- " greater security, cleanliness and comfort
- " convenient and affordable community transit service
- " more bus shelters and bus benches.

The study also noted a lack of transit-related economic development projects. The report concluded that the shortage of operating funds had caused reduced bus service throughout the county. Moreover, it recognized that the region's spread out urban form, which resulted in dispersed employment locations and the lack of job opportunities in the inner city, made it difficult to achieve effective and efficient transit service to the residents of the area.¹⁵

¹⁵Irvin Hampton Company, Barton-Aschman Associates, Inc., Inner City Transit Needs Assessment Study, Summary Report, July 1, 1993, p. 7.

Figure 7.4. Inner City Transit Needs Assessment Study Area



Source: City of Los Angeles Inner City Transit Needs Assessment, 1993.

A recommended \$1.6 million two year pilot project was funded in the FY 1993-94 LACTC budget to provide community-based transit services. The report also recommended additional bus service to relieve overcrowding, more express and limited bus service, and implementation of rail corridor projects. In all, the study made specific suggestions covering operations, service quality, security and economic development.

RTD Concerns over Fare Equity

At this point, the District's average operating cost per boarding had risen to about \$1.65; bus fares paid only about 32 percent of those costs as the average fare collected was less than half the \$1.10 base fare.¹⁶ Even with the \$1.10 base fare, RTD management was concerned about continuing inequalities in its fare structure, in particular that most cash riders had to pay higher fares to offset the deep discounts given other riders using passes. Systemwide, the *average* fare was only \$0.53, due to the large number of discount fares offered. Due to those discounted fares, the burden of fare payment was not spread evenly over all riders. Cash patrons were to some extent cross-subsidizing pass users. The average fare cash patrons paid was \$0.80, as shown in Table 7.3 more than twice as much as pass riders who were paying on average, only \$0.38 per ride. The

¹⁶Only 27 percent of passengers paid the full cash fare but they contributed nearly 54 percent to total revenue. The average pass user paid less than 40 cents per boarding while regular pass users paid only 48 cents.

burden of this cross-subsidization tended to fall on riders who were disproportionately low income workers and unemployed persons.¹⁷ Much of the difference was attributable to student and elderly/disabled (E/D) pass holders, who paid only \$0.19 and \$0.29 per ride, respectively. Even among regular adult riders, pass holders' average fare was still only \$0.44 per ride. Senior monthly passes generated only approximately \$0.20 in revenue, and therefore needed \$1.45 in subsidy. That was equivalent to a \$100 million annual subsidy based on an average of 70 million senior boardings per year.

The reason given for the difference in average fares was that while the cost of a regular pass was equivalent to about 38 rides per month, the District estimated from its studies that regular monthly passes were used *on average* about 90-100 times per month. Since, the District's cost to supply a trip is roughly the same regardless of how it is paid for,¹⁸ with an unlimited use pass, the more often it is used the lower the average cost per ride to the transit user but the less revenue per trip for the RTD. With extensive use of passes, higher base fares are needed to offset the loss in revenue.¹⁹

¹⁷Elderly and disabled cash riders and college/vocational pass users contributed revenues proportionately to their share of boardings, regular cash riders contributed a larger share, while all other cash riders contributed less. On the other hand, E/D pass users received deep price discounts, more than twice that required by law. Moreover, half of all express boardings were being made by E/D, student, or college pass holders. RTD Memo to Board of Directors, dated February 13, 1989.

¹⁸There are, however, more concerns with fraud and counterfeiting with pass use, which adds to overall costs.

¹⁹In addition to its impact on some riders, given its high base fare relative to total passenger revenues the district also received proportionately less funds than other operators under the LACTC's formula allocation procedure (FAP) which was based 50 percent on revenue miles, and 50 percent on total farebox revenues divided by the base fare.

RTD staff distinguished between what it called internal equity defined in terms of the amount paid for the resources used and external equity or the amount various groups of riders should pay relative to others. Questions of external equity (or ability to pay) are basically policy choices whereas internal equity (benefit principle), or the degree of internal cross-subsidization, are primarily technical. As shown in Table 6.4, the RTD calculated that it recovered about 63 percent of the operating cost of a single trip from each cash rider, but only 36 percent from regular pass holders while E/D pass riders paid only 15 percent and student pass users only 24 percent. Express pass riders paid about 62 percent of the cost of a trip. The RTD staff concluded that the steep fare discounts given to the elderly and disabled, and student pass holders, increased the price that had to be charged to cash and regular pass buyers.

Table 7.1. RTD Fare Categories and Revenues, FY 1989

	(1) Boardings (000,000)	(2) Average Cost per Boarding	(3) Revenue per Boarding	(4) Revenues/Cost
Cash Fares				
Regular	153.6	\$1.23	\$0.78	63%
Express	6.7	\$2.65	\$1.48	56%
E/D	5.5	\$1.23	\$0.41	33%
E/D Exp	0.1	\$2.65	\$0.70	26%
Special	0.4	\$2.65	\$1.83	69%
	166.2	\$1.28	\$0.80	62%
Passes				
Regular	92.4	\$1.23	\$0.44	36%
Express	5.1	\$2.65	\$1.65	62%
E/D	51.6	\$1.23	\$0.19	15%
E/D Exp	2.7	\$2.65	\$0.19	7%
Student	35.6	\$1.23	\$0.29	24%
Student Exp	1.8	\$2.65	\$0.29	11%
College	8.9	\$1.23	\$0.57	46%
College Exp	0.5	\$2.65	\$0.57	22%
	198.5	\$1.30	\$0.38	29%
Free	18.4	\$1.29	\$0.00	0%
ALL MEDIA	383.1	\$1.29	\$0.53	44%

Source: RTD, Memo to Board of Directors, February 13, 1989, Table 4.

By eliminating passes, the District reasoned it would be possible to reduce the base cash fare charged. On the other hand, passes are convenient for frequent riders, eliminate the need for carrying exact change, and provide a simple means for outside parties to subsidize travel, particularly for low income transit dependent riders, by purchasing and distributing the passes.²⁰ About 90 percent of elderly and disabled pass users received discount passes from local municipalities, mainly purchased using funds from Proposition A local returns. Passes also benefit the transit operator, by reducing dwell time (the time spent at bus stops) taken up collecting cash fares.

Earlier, in 1989, the RTD Board had considered several alternatives to its existing pass program. At the time, the agency's chief concern was simply equalizing fare burdens, not generating additional revenues.²¹ The RTD staff therefore presented its Directors with several *revenue neutral* options to equalize fares, including:

replacing monthly passes with tokens or tickets

introducing fixed ride permits in lieu of unlimited use passes

introducing monthly fare cutter permits which would provide for

unlimited boardings with a reduced cash payment for each boarding

²⁰Prepaid media were preferred by social service agencies and municipalities, and companies that participated in the Corporate Transit Partnership Program and used passes to comply with mandatory reductions in single-occupant vehicle (SOV) travel required under the Air Quality Management District's Regulation XV.

²¹RTD Memo to Board of Directors, dated February 13, 1989.

modifying pass prices and cash fares so that average revenues from pass boardings and cash boardings would be more similar.

The District staff felt that a token program would retain many of the advantages of a pass program while eliminating some of the drawbacks. Discount tokens would allow frequent users to receive a price break per trip while still generating some revenue from each boarding. They could also be distributed by social service agencies in lieu of passes.

Under a cash only plan (cash, tokens, or tickets only) the District could reduce the base fare back to \$0.85 with a \$0.20 transfer. As depicted in Column 3 of Table 7.2, both express pass users and cash patrons would actually see their fares reduced while regular and other pass riders would be charged more, thereby improving internal equity. The main advantage, though, was that cash riders, many of whom were poor and, it was presumed, could not afford the substantial up-front cost of a regular monthly pass would receive a fare price break, improving external equity. Cash riders who currently paid \$0.78 on average per ride would pay \$0.16 less (\$0.62) while pass riders would pay \$0.18 more. Regular express riders would pay \$0.23 less while express pass riders would pay \$0.40 less.

Table 7.2. RTD Fare Categories and Revenues with Proposed Cash Only Fare

	(1)	(2)	(3)	(4)
	Boardings	Average Cost	Revenue per	Revenues/Cost
	(000,000)	per Boarding	Boarding	
Cash				
Regular	284.9	\$1.23	\$0.62	50%
Express	12.7	\$2.65	\$1.25	47%
E/D	48.5	\$1.23	\$0.28	23%
E/D Exp	2.1	\$2.65	\$0.58	22%
Special	0.4	\$2.65	\$1.78	67%
Subtotal	348.6	\$1.30	\$0.60	46%
Free	18.4	\$1.29	\$0.00	0%
TOTAL	367.0	\$1.29	\$0.56	44%

Source: RTD, Memo to Board of Directors, February 13, 1989, Table 4.

As shown in Column 4, staff estimated that average revenues per regular cash boarding would cover about 50 percent of the average cost of a trip, compared to 63 percent under the existing fare system. Express riders would pay an average of \$1.25 or about 47 percent of the cost of a trip under the all cash scenario, compared to 56 percent under the existing system. Elderly and disabled riders would still receive a federally-mandated discount, but student and college fares would be eliminated. Overall, cost recovery would remain at 44 percent, but projections indicated that there would be a slight decrease in ridership, resulting in a modest increase in average revenue per

boarding to \$0.56 compared to \$0.53.

Plainly, in initially approaching the question of fare policy, the management and staff of the RTD had showed a great deal of thoughtfulness and concern over social welfare and equity. As noted below, further analysis suggested that some of the initial assumptions over the socio-economic differences between cash patrons and pass users did not justify some of the fare proposals then under consideration, and the staff took due note of this. That should not detract from the essence of what they were trying to do. Staff came under increasing pressure to come up with fare restructuring proposals to address growing fiscal concerns. They nevertheless, continued to try to achieve some measure of fairness between different groups of riders. Unfortunately, as the RTD staff contemplated proposals to equalize fare burdens among its riders, its larger financial picture continued to deteriorate. Gradually, the goal of fare equity through the mechanism of fare restructuring was supplanted by the need for revenue enhancement.

Mounting Fiscal Problems

Even before the civil disturbances, the RTD was struggling with severe budget problems. By 1991, the LACTC was becoming deeply concerned about the fiscal

condition of the RTD.²² Despite the 1989 fare increase, the FY 1991-92 budget showed a reduction in fare revenues and increased costs of approximately \$22 million, with a projected shortfall of \$50 to \$65 million. The deficit in the following year was projected to exceed \$100 million. About \$40 million of the shortfall was due to significantly reduced sales tax receipts from the recession²³ and another \$15 million from non-payment of FY 1990-91 and FY 1991-92 State Transit Assistance (STA) funds. The LACTC Board, led by its chair County Supervisor Pete Schabarum, basically withheld operating funds from the RTD to try to force the agency to renegotiate its union contracts.²⁴

The two available choices, cutting service or increasing fares, were both undesirable. On the one hand, some 500 to 600 buses would need to be removed from service, or on the other hand it would take a fare increase of about 30 cents (to a base fare of \$1.40) in order to save \$55 million, either of which would have particularly severe

²²At the time, the Commission itself had amassed outstanding debt totaling \$1.087 billion to finance the Blue Line and a portion of the Red Line (MOS-1) as well as to purchase additional rights-of-way from Southern Pacific Railroad.

²³Sales tax receipts were down about \$61 million but the LACTC agreed to use unallocated funds to offset about \$21 million of the shortfall.

²⁴The Commission had begun withholding the STA funds once it determined that the District was not in compliance with provisions of the Public Utilities Code precluding labor contracts that prohibit contracting out for transit services. Proposition A similarly requires that an operator not be effectively precluded from contracting services in its collective bargaining agreement. The LACTC Board had a longstanding disagreement with the RTD over what the Commissioners considered its pro union-labor culture. See Fulton (1997), ch.5.

impacts on the majority of the system's riders.²⁵

Unsure of the best course of action, the LACTC authorized an outside task force of engineers and accountants to look into the financial condition of the RTD and suggest reforms. The Third Party Task Force's report recommended a number of measures to generate savings of between \$40.7 and \$60.2 million in FY 1991-92 and \$33.8 to \$110.6 million in FY 1992-93.²⁶ Among other things, the report suggested that the RTD restructure its fares to increase average fares but without raising its base fare. It also suggested that the District and the LACTC could reduce costs by reorganizing and consolidating their activities and staffs.

As an austerity measure, the RTD agreed to cut 40 peak service buses and lay off some drivers. It also reduced transit service from 7,150,000 revenue service hours per year to 6,950,000, a net decrease of 2.8%, instituted a hiring freeze, and reduced other administrative and labor costs, but refused to alter its collective bargaining agreements. In a compromise with the LACTC, the RTD kept its union deals but was forced to sell off some of the agency's lines in the San Gabriel Valley to the non-union Foothill Transit

²⁵RTD Memo to Board of Directors, dated February 13, 1989, pages 18-20. A compromise approach consisting of a combination of a 25 cent fare increase and eliminating 200 buses, would also have achieved the same savings.

²⁶Third Party Task Force, Recommendations to Reduce the SCRTD Budget Shortfall, March 23, 1992.

district in exchange for the LACTC releasing the funds it was holding.²⁷ Total ridership fell 2 percent, in part due to the transfer of the Foothill lines, but sales of monthly passes, particularly Elderly and Handicapped (E/D) passes went up, as did sales of discount tickets. As a result, average per passenger revenues declined about 4 percent.²⁸ These one-time measures helped to keep the RTD's financial ship afloat, but did not address the structural problems it faced. The 1992 civil disturbances only added to the agency's dilemma.

RTD Fiscal Year 1992-93 Budget

The prolonged economic recession of the late 1980s and early 1990s, had triggered a sharp decline in local sales tax revenues (Proposition A and C) and state funds, leaving the RTD with a projected \$117.4 million operating deficit for FY 1992-93. Boardings declined below 400 million riders and fare revenues fell below \$200 million. Los Angeles Mayor Bradley made a motion, approved by the LACTC Board, authorizing the Commission to provide the RTD with an immediate subsidy of \$58.2 million drawn from Proposition C monies that had been set aside for bus expansion, and to reconvene the Third Party Task Force to investigate additional ways to reduce the remaining \$59.2

²⁷Fulton (1997).

²⁸Memo to Board from Tom Rubin, February 29, 1992, Presentation for LACTC Finance Committee Workshop on Funding Shortfall.

million deficit.

The reconvened Third Party Task Force²⁹ recommended that the District raise \$15 million to \$19 million from fare restructuring and service adjustments during the remainder of FY 1992-93. The Task Force also recommended that the RTD achieve \$10 million in cost reductions, mainly through reorganizing management. The RTD staff urged the LACTC to allocate some of its \$2.6 billion budget to fund regional bus service given that the Commission's own operating budget had increased substantially over the previous fiscal year.³⁰ The RTD agreed to accept a hiring freeze, but resisted further requested cuts in personnel that it felt would adversely impact service delivery, noting that no similar belt tightening was occurring at the LACTC.

In August 1992, the RTD again considered a number of options to restructure the fare system to increase revenues and improve equity. The RTD Board was still interested in shifting to all cash fares to eliminate passes and possibly even transfers. Under that system, all patrons would pay approximately the same fare per boarding, thus eliminating large cross subsidies. But, as noted above, those discounts help offset costs for those such as the elderly, disabled persons, and young people, who may be unable to pay full

²⁹The reconstituted Third Party Task Force was expanded to include transportation and management consultants from the RTD and the LACTC, accountants, outside transportation experts and bus operators.

³⁰The LACTC's budget had risen from \$77.9 million to \$178.9 million. The Third Party Task Force recommended that the LACTC trim its own budget by \$3.3 to \$3.7 million.

fares, or have limited access to alternative means of transportation. Still, *most* of the bus system's riders were poor. Regardless of fare category about 57 percent of all patrons earned \$15,000 or less. A total of 76 percent of all elderly and disabled riders earned \$15,000 or less. Only 42 percent of express bus users earned more than \$25,000. They already paid a premium for service, though not in proportion to the added expense of the service. In addition, the cost of the E/D passes were further subsidized by local jurisdictions, so to a degree the then-current fare system already took into account the ability to pay.

One option was to proportionally increase both the base cash fare and monthly pass prices. Another alternative would have eliminated all passes but retained the base cash fare of \$1.10 with a \$0.30 transfer. A third option would have eliminated transfers but reduced the cash fare to \$0.80. A fourth option considered was to institute a peak period cash surcharge of \$0.40 and increase pass prices. A final option was to eliminate transfers but otherwise keep the current fare structure. The staff also considered offering weekly or bi-weekly passes to make passes affordable to more riders, although this option would have entailed increased printing and distribution costs. Other novel alternatives discussed were instituting fare cutter monthly passes³¹ or fare debit cards. None of these were presented as formal recommendations for adopting a fare increase but, rather,

³¹A fare cutter pass allows the user to pay a reduced fare each time the pass is used. The district would receive some additional revenue for each additional trip but the cost of the basic pass could be reduced compared to an unlimited use pass.

were drawn up by staff primarily as an indication of the magnitude of increase that would be needed in order to raise from \$45 to \$50 million annually if no other funding options became available.

The staff subsequently refined three options for further consideration: (1) proportional increases in all cash and pass fares; (2) no passes; and (3) no passes or transfers. The last two all cash scenarios eliminated all passes (except for E/D passes), retained the express fare increment and eliminated all other discount fares. The third scenario also eliminated transfers.³²

Converting to all cash would mean more dwell time³³ and increased administrative costs. Transaction costs would be higher for the proportional increase scenario because of the greater use of paper money. The basic choice was between (1) choosing a fare structure that had base fare lower than a dollar, or (2) proportionally increasing all fares, and acquiring fare boxes that would accept dollar bills. Eliminating all passes and transfers was the only way to achieve a base fare lower than a dollar, and still generate sufficient revenues to overcome existing shortfalls. Staff estimated that an

³²The first or proportionate alternative structure would have a \$1.35 base fare, 35 cent transfers, 50 cent express increments, a \$52 regular pass, \$15 express stamps, \$13 E/D pass, \$22 student pass and \$31 college/voc ed pass. Under the second option, with only passes eliminated base fares would still have to be between \$1.10 and \$1.20. Only with the third option, all transfers and passes eliminated, could the base fare be set under \$1 (\$0.80) and generate as much revenue as the existing fare structure. Under the \$0.80 fare the administrative savings offset the costs due to higher dwell time while under the \$1.20 fare administrative and dwell costs were \$6 million more.

³³Dwell time is the time spent stopping to pick up and discharge passengers.

80-cent all cash fare could generate an annual savings of as much as \$58 million.

Despite the growing fiscal concerns, the RTD Board still asked its staff to refocus their fare analysis more on equity issues than revenue concerns and to consider other alternatives such as adopting semi-monthly passes, special passes for the unemployed, reducing fares to \$0.50, or charging different amounts for initial and subsequent transfers. Staff responded in a strikingly philosophical manner, recognizing that the District's basic market was the very poor and that fare discounts served mostly low income patrons, especially those without access to alternative means of travel. Seniors and the disabled, who received the deepest discounts, were on average poorer than other patrons. Staff was quite frank about the dilemma facing the Board given its commitment to rail development:

The ever-present question in all fare decisions is not should the District serve the poor (it already does) but is what is the proper balance between serving the poor and serving larger markets? This dilemma becomes especially painful when large sums of tax dollars are being diverted to transit to alleviate mobile source pollution; to be successful (and to continue or expand the revenue stream) transit must attract the middle class away from its automobiles. On the other hand, poor cash-paying customers apparently are paying more for less luxurious service than other

types of patron.³⁴

Staff presented two options, one a no-change scenario in which farebox revenues stayed constant and a proportional increase scenario that would respond to the Third Party Task Force recommendation to increase revenues by \$15 million in FY 1992-93. Increasing cash fares to \$1.25 with \$0.30 transfers, and \$48 for regular passes, was projected to result in a boost in revenues of \$12.4 million and \$3.6 million in reduced costs from fewer riders. Elderly and disabled riders would have been significantly affected by eliminating passes, due to their deep discounts, so much so that the idea of eliminating E/D passes was basically dropped. Students, who also tend to be poor, would also have been affected.

Staff concluded that eliminating passes would affect frequent regular riders most (particularly those currently receiving deep discounts or third party support). If, nonetheless, all transfers and passes (other than E/D passes) were eliminated the base fares could be set under \$1.00 and still generate as much revenue as the existing fare structure. With only passes eliminated, and transfers priced at \$0.40, base fares could be set as low as \$0.75 with almost no impacts on revenue.³⁵

³⁴RTD memo to Board of Directors, October 2, 1992.

³⁵RTD memo to Board of Directors, dated October 2, 1992. This scenario led to a small increase in ridership overall, and higher service costs.

The staff also considered offering two-week, unlimited ride passes to make passes more affordable to a larger portion of the ridership. Many of the poorest riders tended to pay the highest fares because they could not afford the cost of the unlimited ride monthly pass. The staff concluded that a regular two-week pass priced at \$23-24 would return the same revenue as the monthly pass and cover additional administrative costs. A six month demonstration project was set up to sell two-week passes from February 1993 to July 1993.

Throughout this process, the RTD staff struggled with equity issues in attempting to refine the agency's fare structure amid growing fiscal problems. Solving the internal equity problem (the amount paid versus the amount of resources used) by eliminating passes could well exacerbate problems of external equity (how much each group should pay relative to ability to pay). Eliminating passes would impact poor frequent riders who would have to pay a higher average fare per ride. On the other hand, those riders too poor to afford the price of the monthly pass, could benefit from a lower base fare. To the extent that pass riders would make additional off peak trips, the RTD itself benefitted from selling passes as it led to lower peak-to-base ridership ratios. As a consequence of these conflicting considerations, staff was reluctant to recommend any drastic change in fare prices or policies. A series of events, would however, soon overwhelm these cautious efforts to improve fare equity and result in a drive to raise fares primarily in order to generate additional revenue.

The Fiscal Crisis Deepens

Even with the cost saving measures recommended by the Third Party Task Force a gap of \$40 million still remained in the budget. At its November 18, 1992 Board Meeting, the LACTC adopted a motion by Mayor Bradley and Supervisor Antonovich establishing a list of cost reductions and revenue enhancements, based on the Third Party Task Force report, to force some fiscal discipline on the agency and to mitigate the budget shortfalls.

For its part, the RTD committed to achieving a \$15.5 million cost savings through a hiring freeze and non-service related cost reductions.³⁶ It also agreed to reduce its Workers Compensation and public liability and property damage budget reserves by \$7.5 million but refused to change its pension plan contributions covered by its collective bargaining agreement.³⁷ In return for these measures intended mainly to force a reduction in labor costs, the LACTC placed \$40 million of its discretionary Proposition C funds in a neutral escrow account to be distributed to the RTD upon compliance with the various

³⁶Letter to Board of Directors from Alan F. Pegg, RTD Best Efforts Plan to Implement Third Party Task Force Recommendations 3,4, and 7, December 2, 1992. LACTC staff recommended that the RTD be credited with the \$5.7 million credit due from the bus service expansion reserve. Memo to Finance and Programming Committee, Implementation of the 11/18/92 Commission Action to Correct the SCRTD FY 92-93 Budget Shortfall, December 1, 1993.

³⁷LACTC staff recommended that the RTD be credited with \$2.1 million of the \$5.7 million credit due from the bus service expansion reserve. Memo to Finance and Programming Committee, Implementation of the November 18, 1992 Commission Action to Correct the SCRTD FY 92-93 Budget Shortfall - Phase 2, January 8, 1993.

cost saving recommendations.³⁸ The motion also directed both staffs to prepare a joint report detailing possible savings of between \$17 million and \$26.5 million from fare restructuring. While in the end the RTD's budget for 1992-93 was balanced, that was basically achieved only by using over \$90 million in Prop C 40% Discretionary Funds for bus operations.

By early 1993, the staffs of the LACTC and the RTD completed work on a set of fare policy principles to guide any fare restructuring. The principles stressed (1) that fares should keep pace with inflation by achieving a 38 percent farebox return on operating costs in non-recessionary years, (2) that riders should be treated equitably in terms of cost paid for services received, (3) that higher cost services should carry higher prices, and (4) that the user's ability to pay, and access to transportation alternatives should be taken into account in discounting prices. In addition, staff recommended that fares should be set so as to encourage off-peak use. Had fares been raised between FY 1988-89 and FY 1992-93, the staff concluded, additional revenue could have been collected that might have been used to alleviate overcrowding. In the future, the staffs recommended, fare increases should occur regularly so that unpopular periodic large increases would not be

³⁸The RTD would receive \$5.7 million in December 1992 upon presentation and approval of a best efforts plan to save between \$15 million and \$19 million in labor and non-service related costs. The RTD would receive another \$5.7 million in January 1993 upon presentation and approval of a similar plan to save up to \$20 million from workers' compensation and pension funds, and a further \$5.7 million installment in February 1993 by presenting a plan to save between \$2 and \$5 million in bus and rail security costs. The RTD would be given four additional monthly installments of \$5.7 million through June 1993, minus 1/4 of any savings it achieved over and above the \$40 million shortfall. Any leftover funds would be dispersed to the RTD to use to maintain and expand the regional bus system and relieve bus overcrowding. Mayor Bradley/Supervisor Antonovich Motion, November 18, 1992.

necessary. In addition, some social welfare discounts (such as college and student passes) should be reduced since the target population was not significantly worse off than other riders. Finally, pass prices should encourage additional trips during the off-peak when costs are lower. The report summarized these principles as:

Riders should pay for what they receive, with some exceptions for those who are financially needy or transit dependent. High cost services call for higher prices. . . . Analysis may also look beyond agency costs/benefits *because of transit s service mission.*³⁹

While all this was going on, other events were taking place that would reshape the entire nature of the transit in debate in Southern California. The state legislature had grown increasingly disturbed by the constant infighting between the transit agencies in Los Angeles and the apparent lack of coordination in the rail program. It voted to consolidate transit planning and operations into a single countywide agency. The move strengthened the hand of the rail proponents in the LACTC, so that when the issue of bus fares was again addressed, the debate began to shift away from promoting equity to raising revenues, in order to protect promised rail projects. More critically, where the RTD had only the Red Line to be concerned with, the new agency inherited the LACTC s far more ambitious and costly regional rail program. In that mix, the needs of poor and minority

³⁹LACTC/RTD Draft Discussion Paper, February 9, 1993 (emphasis added).

transit dependents for some measure of justice quickly fell victim.

The Great Merger of 1992

As the foregoing suggests, relations between the LACTC and the RTD were becoming increasingly strained. Critics charged that having separate agencies responsible for planning, construction, and transit operations was creating administrative gridlock. In 1992, the state Legislature stepped in and directed that the two agencies be merged to form a new organization known as the Los Angeles County Metropolitan Transit Authority (MTA).⁴⁰ The MTA was given responsibility for planning and administering all transportation services for Los Angeles County and allocating state and federal funds to local transit providers.

On April 1, 1993 the LACTC and the RTD were both formally abolished under the provisions of AB 152 and were succeeded by the MTA. Among other things, the forced merger reduced some administrative costs and eliminated hundreds of staff positions. The MTA operates under the California Public Utilities Code (PUC) with the powers, rights and duties set forth in the PUC and other state statutes. By law, the 13 member MTA Board consists of various elected officials, including the five Los Angeles

⁴⁰Assembly Bill 152, May 19, 1992.

County Supervisors, the mayor of the City of Los Angeles, three members appointed by the mayor of Los Angeles and four representatives from outlying cities selected by the Los Angeles County City Selection Committee.⁴¹ The governor also appoints one non-voting member.⁴² Franklin White, former New York City Transit executive, was appointed the first Chief Executive Officer of the MTA.

Los Angeles County Metropolitan Transportation Authority

The merger placed bus operations directly under the control of the MTA Board, whose membership was similar to the old LACTC, and increased pressure on bus operations to reduce costs and raise more revenue. At this time, the RTD operated about 85 percent of the public bus service in the county, an extensive system composed of 128 regularly scheduled trunkline bus routes and 55 regularly scheduled branch routes primarily in the southern, urbanized portion of Los Angeles County, and the urban rail transit lines described above: the Blue and Green Lines (light rail), and the Red Line

⁴¹Public Utilities Code section 135001. The Mayor of the City of Los Angeles must appoint two public members and one member of the City Council. Id., subsection (c).

⁴²Public Utilities Code section 135001, subdivision (f). Several bills to restructure the Board have been considered in the state legislature. One that recently passed the state Senate would replace the current board with a 12 member panel composed of the mayor, two county supervisors, one member appointed by the mayor, two members appointed by the Los Angeles City Council and five members appointed by the Los Angeles County City Selection Committee, and including the governor's nonvoting appointee. The bill would also establish a code of conduct for board members. Critics point out, however, that it would not eliminate the conflict of interest caused by the Board's dual responsibilities for planning a regional transit system as well as operating both bus and rail lines.

(heavy rail). This service consisted of approximately 6.9 million bus revenue service hours, 81,000 light rail revenue service hours, and 16,000 heavy rail revenue service hours annually. Combined ridership totaled around 400 million passengers annually. MTA was also responsible for completion of a world class Metro Rail System in accordance with the LACTC's 30-Year Integrated Transportation Plan which placed responsibility for the Red Line construction directly in the hands of the newly-created MTA Board.⁴³

In addition to operating bus and urban rail systems, rail capital construction projects, the MTA also allocates federal and state transit funds and local sales tax receipts to local municipal government transit operators in the county, including the Southern California Regional Rail Authority (SCRRA), the public agency created in 1991⁴⁴ to operate commuter rail line known as Metrolink in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, generally over existing railroad rights of way. MTA also supplied nearly all of Metrolink's operating subsidies though as lines were opened to

⁴³The LACTC had succeeded in its efforts to assume formal responsibility for completing the Metro Rail project from the RTD, replacing the RTD as federal grantee. Federal Transit Administration, Notice of Grant Approval, Program Nos. CA-03-0130, CA-90-X204, CA-90-X059, CA-90-0080, October 6, 1992. The LACTC convinced the DOT that this would eliminate costs due to duplication of efforts as it was already responsible for overseeing the RTD. These functions were later assumed by the MTA, as the successor to the LACTC.

⁴⁴Senate Bill 1402, Public Utilities Code Section 130255. The Board consists of four members from the LACTC, two members each from the Orange County Transportation Authority, the Riverside County Transportation Commission, and the San Bernardino Associated Governments, with one member from the Ventura County Transportation Commission. Joint Exercise of Powers Agreement to Establish the Southern California Regional Rail Authority.

counties outside Los Angeles County, those counties were expected to contribute an increasing share of costs. Initially, the MTA insisted on maintaining control over the agencies, and MTA staff basically served as SCRRA staff until the other counties began contributing a greater share of funding.

Impact of the Merger

Merging the RTD and LACTC into a unified organization was not easy given their different management styles and overall objectives. The RTD, was an old bus operations company with a hierarchical management structure, primarily concerned with maintaining and upgrading existing transit service. Staff had little interest in the LACTC's light rail projects that would not serve the bulk of the transit dependent population. In contrast, the LACTC operated under a team oriented approach, and was committed to developing a wide range of transportation projects including promoting new, innovative technologies. The agency was organized by team planning areas, with each team responsible for rail planning, programming and community relations within a separate corridor, a situation that led to little coordination, inadequate project evaluation, and a lack of overall regional goals.⁴⁵ The Board, dominated by county politicians likewise had little use for an expensive downtown subway that in their view would only

⁴⁵Richmond (1993).

benefit the City of Los Angeles.⁴⁶ Rather than solving the political conflicts that existed, the merger simply internalized the old center-periphery debates within the new agency in terms of a battle between buses, subways and rail lines.

Conflicts over improving bus service versus completing the voter-mandated regional rail system continued to hamper agency activities after the merger. The merger also resulted in integrating the budgeting processes of the two predecessor agencies, a step which ultimately made it more difficult for the pro-local bus factions from the old RTD to resist pressure from the pro-regional rail forces in the LACTC. Before the merger, the RTD had controlled its own budget, but needed additional operating funds from the LACTC and would periodically use the threat of a fare increase to get them. The LACTC would try to wring some concessions out of the RTD such as reductions in labor costs, or privatizing parts of the system as in the case of the Foothill Transit.⁴⁷ But with the merger, the MTA Board dominated by the County Supervisors had complete control over the bus budget and no longer had to engage in a bureaucratic tug of war to control what it saw as an inefficient relic.

What began as a difference in philosophy between the RTD and the LACTC, reflected in the fights over bus fares, construction schedules, and union relations, became

⁴⁶Fulton (1997).

⁴⁷Fulton (1997).

an internalized debate within the MTA, with many observers believing that the bus interests were being submerged within the new transit authority.⁴⁸ This bus/subway versus light rail debate, to again somewhat oversimplify the nature of the dispute, did not remain internal to the agency but increasingly spilled over into the public arena. While the question of which transit mode would best serve the transportation needs of the region might have seemed somewhat abstract, its consequences would become much more concrete and understandable as events unfolded. As documented in the following chapter, the dispute quickly turned into a full blown bus versus rail rumble between the new MTA and local transit dependents and their advocates.

As the state's largest transit operator, the MTA was also the primary recipient of most of the Prop A and Prop C funds, which created a built in conflict of interest between the agency's dual missions as a regional planning organization and its obligation to operate a high quality bus service at a reasonable fare. While the RTD Board had been interested in reducing base fares to increase patronage or at least equalize some perceived inequities in the fare structure, under the new management regime, pressure would begin to build to increase fares to generate more revenue. Much of that pressure can be traced back to the adoption of the LACTC's ambitious rail expansion program that would soon consume all of the MTA's Proposition C 40% Discretionary Fund revenues, leaving few uncommitted funds from which to cover increasing bus and rail operation costs. Rather

⁴⁸Richmond (1994).

than scaling back or postponing rail construction, the MTA solution was to make bus operations pull their own weight.

At first, the agency continued to support improvements to the bus program. For example, in July of 1994 newly elected Los Angeles mayor Richard Riordan, as Chair of the MTA, directed agency staff to present a program to improve transit service in the most transit dependent areas of the city. Staff recommended a number of proposals based on the aforementioned Inner City Needs Assessment Study. In addition, the MTA and the Los Angeles City Department of Transportation agreed to conduct a joint Mid-Cities Transit Restructuring Project to examine service within the inner city to undertake a comprehensive review of all inner city transit lines and recommend service improvements. In December 1994, the MTA Board authorized up to \$2.5 million in funds to implement four demonstration projects, two limited bus lines, a new diagonal bus line, and a flexible shuttle program (see Figure 7.5). Community reaction was generally positive,⁴⁹ though members of the Labor/Community Strategy Center, which was already beginning to organize against the new agency, argued that even more should be done and that funding should extend beyond two years.

⁴⁹A public hearing held on January 24, 1995 was attended by representatives of Concerned Citizens of South Central, the Crenshaw Chamber of Commerce, Citizen Transportation Oversight Committee, the Leimert Park LANI Project and Councilman Mark Ridley-Thomas.

developed an integrated Transportation/Land Use Policy to complement the 30-Year Plan and the City's revision to its own General Plan.⁵⁰ The policy was intended to guide future development around transit station areas. It viewed the proposed 400-mile rail transit system as a means to support the City's Centers Concept by encouraging the redevelopment of its historic downtown area, protecting existing neighborhoods, and encouraging economic growth, as well meeting the 10.3 percent mode split for transit required by regional air quality goals. The impact of air quality issues driving transit policy is evident in the proposed land use policies to direct growth around transit centers and creating pedestrian mixed-use neighborhoods within walking distance of rail stations. These Transit-Oriented Districts (TODs) would provide higher density housing, and neighborhood oriented retail services, that presumably would reduce the need for automobile trips. The Policy addressed equity issues, albeit in general terms. It called for providing the same range of choices for all residents, particularly for those residents who have few, if any choices. It also called for a decision-making process to ensure equal access and mobility to all residents and to meet underserved transit needs, with priority for revitalizing economically disadvantaged areas. The City and the MTA agreed that:

The funds collected through MTA's transit-related development projects shall, to the extent permitted by law, be distributed systemwide based on

⁵⁰The Los Angeles General Plan consists of three components: (1) the Citywide General Plan Framework; (2) the Citywide Elements (Air Quality, Conservation, Historic Preservation and Cultural Resources, Housing, Infrastructure Systems, Noise, Open Space, Public Facilities and Services, Safety, and Transportation); and (3) the 35 Community Plans (Land Use Element).

the equity principles contained in this Policy.

The City and MTA shall utilize a Citizen Participation Process which shall ensure community input and equitable decision-making in all phases of system and land use planning, development, engineering and implementation.⁵¹

The Policy identified a series of transit station area prototypes based on a hierarchy of centers, including the following: Major Urban Center (CBD); Urban Complex; Major Bus Center; Neighborhood Center; Regional/Suburban Center, and Industrial Complex.⁵²

Unfortunately, at the time Southern California was also suffering through a severe recession, as a result of which there were fewer bus and rail riders,⁵³ but more importantly less state and local revenue available to support the MTA's myriad obligations. As a result of new economic forecasts by the UCLA business school,⁵⁴ projected sales tax revenues would have to be reduced by approximately 15 percent, or about \$7.6 billion

⁵¹Los Angeles Transportation/Land Use Policy Background Report, December, 1991, prepared by the Los Angeles County Transportation Commission, the City of Los Angeles Department of City Planning, the City of Los Angeles Department of Transportation.

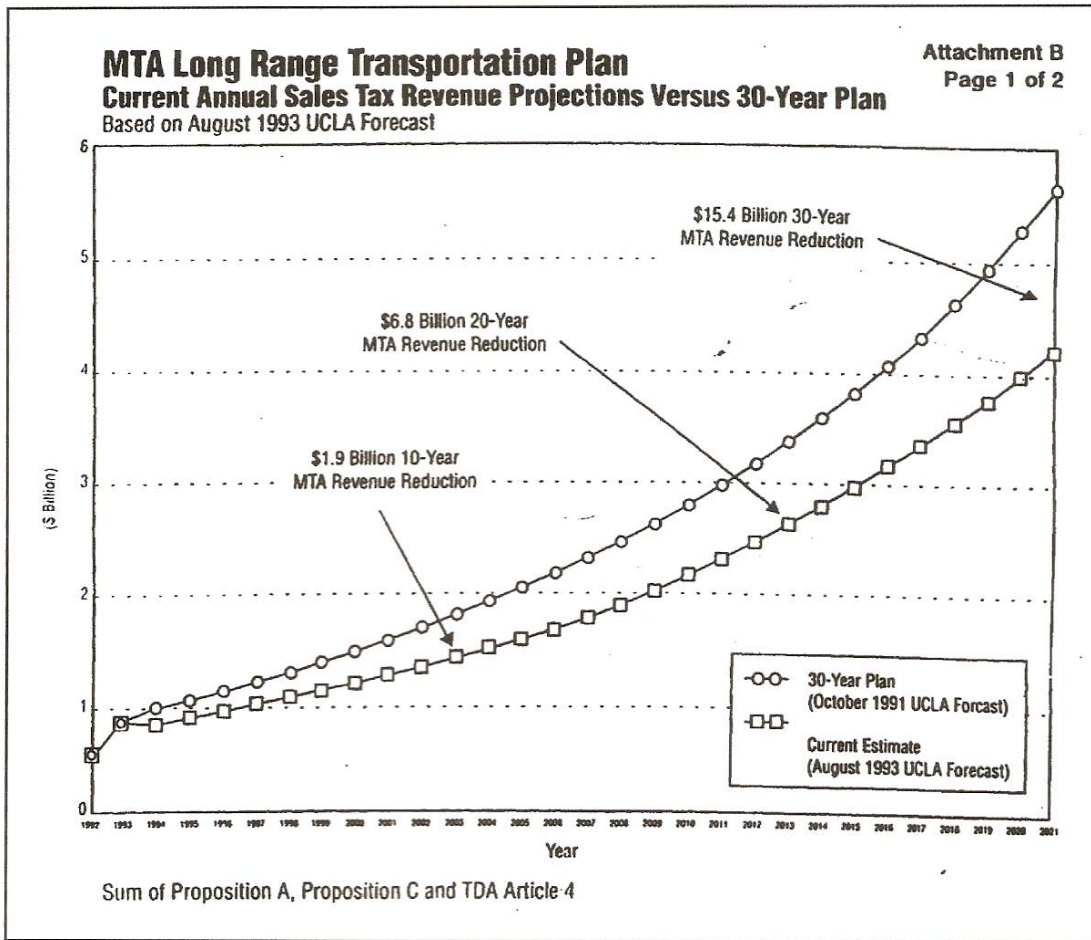
⁵²City of Los Angeles, Planning Department, Land Use/Transportation Policy for the City of Los Angeles and the Los Angeles County Metropolitan Transportation Authority, March 1993.

⁵³By FY 1993, annual bus boardings dropped to 375 million riders.

⁵⁴Anderson Graduate School of Management, UCLA Business Forecasting Project, Long-term Forecast of Los Angeles County, 1992, 1993, 1994, 1995.

over the period of the 30-Year Plan (see Figure 7.6). New CEO White tried to bring some order and fiscal discipline to the agency by slowing down some rail projects without cutting bus service. The impact on the bus program could be mitigated some by using ISTEA funds but the revenue shortfall would also mean delaying work on some rail future projects, a move that would not be politically palatable to the Board. Over the course of the next two years, the MTA would struggle to maintain rail construction in the face of declining revenues from fare revenues that failed to keep pace with inflation and dwindling subsidies from sources buffeted by a lingering recession combined with relatively high costs on a very heavily patronized bus system.

Figure 7.6. Revised Revenue Projections



Source: MTA Long Range Transportation Plan.

The Road to Financial Ruin

The new MTA Board quickly moved ahead to expand the rail system. The immediate objectives were completion of the Red Line MOS-1 segment and continued construction on the MOS-2 segment, and obtaining approval and funding for the planned Red Line extensions, as well as completing the Green Line and planning for the Pasadena Blue Line. On May 14, 1993, the Board entered into a Full Funding Grant Agreement with the Federal Transit Administration (FTA) for constructing the final improvements to the Red Line MOS-3, consisting of three separate segments: the North Hollywood, Mid-City, and Eastside extensions.⁵⁵ The North Hollywood Extension would stretch 6.3 miles from the Hollywood/Vine station northwest underneath the Hollywood Hills to the North Hollywood Station near Lankershim and Chandler Boulevards in the San Fernando Valley. The Mid-City Extension, would stretch 2.3 miles southwest from the Wilshire/Western Station, through the Olympic/Crenshaw station and on to the Pico/San Vicente Station. The third segment, the Eastside Extension, would run generally east from Union Station approximately three miles with at least two stations.⁵⁶ The project would serve the Little Tokyo area, Boyle Heights and East Los Angeles. It was included in the 1994 Regional Mobility Element adopted by SCAG and the projected improved

⁵⁵These last two segments were part of what the MTA originally designated as the Orange Line.

⁵⁶Funding for the Eastside Corridor extension had been identified in the federal Intermodal Surface Transportation Efficiency Act of 1991, however, at the time of the agreement, the Locally Preferred Alternative had yet to be adopted. In June 1993, the MTA Board selected a Locally Preferred Alternative consisting of a 6.8 mile below grade alignment from Union Station east to the intersection of Whittier Boulevard and Atlantic Boulevard.

mode split from construction of the project was incorporated into the regional Air Quality Management Plan. This was the only major transit project programmed for the predominately Latino Eastside Corridor.

The baseline cost of the entire MOS-3 project was \$2.45 billion,⁵⁷ consisting of \$1.3 billion for the North Hollywood Extension, \$490 million for the Mid-City Extension and \$650 million for the Eastside Extension. Congress agreed to provide \$695 million in FY 1993 through FY 1997,⁵⁸ and the agreement also authorized up to \$535 million to reimburse Advance Construction costs in the FY 1998-2000 period, for a total federal commitment of \$1.23 billion.⁵⁹ The state share would be \$166 million and local funds would contribute the remaining \$1.1 billion.

Meanwhile, the MTA obtained environmental clearances and prepared engineering studies for the Exposition Corridor project, the Burbank/Glendale/Los Angeles light rail project, and the Northern and Eastern Green Line extensions. Storm clouds were on the horizon though, and the entire optimistic rail program would soon receive a cold drenching of fiscal reality.

⁵⁷Equivalent to \$3.20 billion in 2004 dollars.

⁵⁸Of this, \$59.5 million were authorized for fiscal year 1993 under Section 3 New Starts of the Federal Transit Act and \$21 million in Section 9 grant funds.

⁵⁹The Full Funding Grant Agreement for the Red Line MOS-3 was later amended to provide an additional \$186 million in contingent commitment authority pursuant to 49 U.S.C. §5309(g) bringing the total federal commitment to 1.416 billion. Amended Full Funding Grant Agreement, MOS-3, December 28, 1994.

By the mid 1990s, a number of factors were putting increasing financial pressure on the MTA. As depicted in Table 7.3, the MTA receives funding from local, state and federal sources. But Congress had capped transit operating assistance funds, and the prolonged economic recession had triggered a sharp decline in sales tax revenues from both Prop A and Prop C and state gas tax monies (TDA). Even the most ardent rail proponents in the MTA began to recognize that the agency could no longer adhere to the 30-Year Plan developed by its predecessor, the LACTC, in light of the budget crisis.

Light rail was considered the key to a truly multi-modal transportation system that would improve mobility in the county. The 30-Year Plan committed the agency to a very aggressive rail construction program that was deemed necessary to bring rail service to the public as soon as possible. To accomplish that, the LACTC chose to commit its future tax revenues to float bonds to generate funds to pay for future rail construction. Debt financing produces a 12 to 1 annual return in bond proceeds that can be used as the local match to leverage additional state and federal funding sources. The 30-Year Plan had earmarked all Prop A 35% Rail Capital funds and half the Prop C 40% Discretionary funds for rail development.

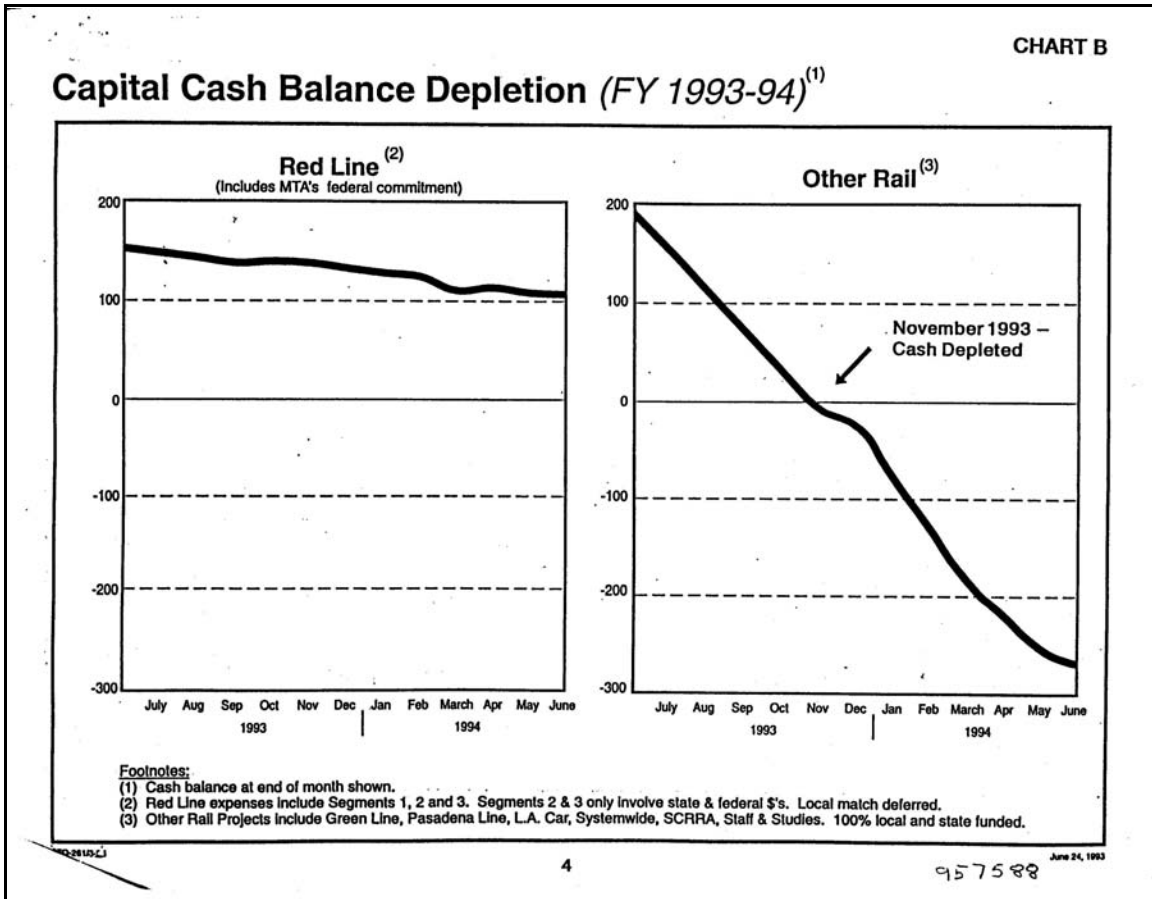
Table 7.3. MTA FY 1993-94 Budget Revenue Sources (\$Millions)

	Federal	State	Local			Other	Total
			Prop A	Prop C	Fares		
Bus	\$141.2	\$242.8	\$223.5	\$172.1	\$233.6	\$2.7	\$1,015.9
Rail	\$396.1	\$213.2	\$485.4	\$405.9	\$7.2	\$54.1	\$1,561.9
Commuter Rail		\$58.3		\$134.3	\$8.6	\$6.6	\$207.8
Highway/ TDM	\$363.9	\$120.3	\$18.8	\$355.9		\$19.3	\$878.2
Other		\$4.0	\$15.7	\$5.1		\$3.0	\$27.8
Total	\$901.2	\$638.6	\$743.4	\$1,073.3	\$249.4	\$78.7	\$3,691.6
	25%	17%	20%	29%	7%	2%	100%

Source: MTA Fiscal Year 1993-1994 Annual Budget, p.9.

Based on those assumptions, the LACTC had borrowed \$500 million against future Prop C revenues to free up cash for bus transit while keeping rail construction on schedule, a decision that would obligate the MTA for \$55-60 million each year in debt service over the life of the bonds. While the first leg of the Metrorail Project was nearing completion, and had adequate state and federal funding, the staff warned the MTA Board that by November 1993, it would be out of cash to pay for other rail construction projects (see Figure 7.7). By the year 2002, Prop C 40% Discretionary funds would be insufficient to cover all the debt payments due. The recession, however, had limited the MTA's ability to issue borrow additional funds backed by tax receipts.

Figure 7.7. MTA Cash Balances



Source: MTA, Budget Workshop, June 28, 1993, Chart B.

MTA Fiscal Year 1993-94 Budget

Well into a prolonged recession, new CEO Franklin White's budget message accompanying the MTA's first budget promised to provide a comprehensive system of transportation services designed to increase mobility, promote growth in the area's economy, and to improve the quality of the environment and of life.⁶⁰ The rail system expenditures were defended as the missing component of a truly multimodal transportation system that would help pull Los Angeles out of its economic downturn.⁶¹ White advised the Board members, though, that revenue projections were lower significantly than had been assumed in the LACTC's 30-Year Plan. Long term funding gaps existed in both the rail construction program and in bus and rail operations. White noted that long term solutions to the agency's financial problems would not occur quickly or easily but would depend on finding new funding sources as well as changes in service delivery, fare structure and organization.⁶²

The budget document presented to the new MTA Board by White called for \$3.4 billion in new spending (see Table 7.4). As of July 1, 1993 the agency had a combined fund balance of \$922.1 million. In looking at the agency's financial picture, it is

⁶⁰MTA Fiscal Year 1993-1994 Annual Budget (Adopted on August 25, 1993), page 2.

⁶¹MTA Fiscal Year 1993-94 Budget, page 6.

⁶²MTA, Memo to Board from Franklin E. White, Action Items Recommended for June 30, 1993 Adoption of MTA FY 1993-94 Budget, June 29, 1993.

important to understand that MTA resources are collected in several separate funds. Monies for bus and rail operations are known as the Enterprise Fund. Debt payments are treated as an operating expense in the Debt Service Fund. Rail projects are funded out of the Capital Projects Fund. There is also a General Revenue Fund as well as separate funds for payments mandated by Prop A, Prop C and Other Special Revenue Funds.

Projected spending for Capital projects totaled \$1.2 billion (mostly rail construction), and local subsidy programs \$1.1 billion. The Enterprise Fund activities totaled \$0.7 billion. Debt service amounted to \$0.3 billion. These expenditures exceeded fund balances and expected revenues by roughly a half billion dollars, leaving the agency with just \$335 million in reserves at the start of FY 1994-95 (see Figure 7.8). The agency needed a total of \$258 million to complete the Green Line (\$216 million), the Pasadena Line (\$17 million), and the LA Car project (\$25 million).

Table 7.4. MTA FY 1993-94 Budget Revenue and Expenses by Fund (\$ Millions)

	General Fund	Debt Service	Capital Projects	Enterprise Fund	Total*
Balance 7/1/93	\$0.0	\$114.3	\$271.7	\$0.0	\$922.1
Revenues	\$0.0	\$3.0	\$681.1	\$289.0	\$2,335.0
Expenditures	\$65.0	\$252.7	\$1,196.1	\$710.1	\$3,356.3
Subtotal	(\$65.0)	(\$249.7)	(\$515.0)	(\$421.1)	(\$1,021.3)
Other Financing (Includes transfers from Prop A, Prop C, and Other Special Revenue Funds)	\$70.5	\$176.5	\$435.8	\$421.1**	\$434.5
Subtotal	\$5.5	(\$73.2)	(\$79.2)	\$0.0	(\$586.8)
Balance 6/30/94	\$5.5	\$41.1	\$192.5	\$0	\$335.3

*Totals includes revenues and expenses from Prop A, Prop C and Special Revenue Funds not shown.

**Transfers to Enterprise Fund included:

Prop A 40% Discretionary Fund	\$90.4 M	
Prop C 40% Discretionary Fund	135.2 M	(includes \$117.7 M reserves)
Prop C 10% Rail Fund	22.5 M	
TDA	126.7 M	
STA	45.8 M	
Other Federal Funds	<u>0.5 M</u>	
Total	\$421.1 M	

Source: MTA Fiscal Year 1994-1995 Annual Budget, p.14.

Capital Projects

With the decrease in sales tax revenues, all Prop A funds were committed to debt service for the Blue Line construction and the local match portion of the Red Line segments 1 and 2 and ongoing Red Line segment 2 construction. Also, a larger portion of the Prop C funds were needed for rail operations, bus and rail security and ADA compliance measures.⁶³ Monies needed to fund all committed rail programs and projected rail operations costs based on the 30-Year Plan schedule far exceeded available funds, leaving no resources to cover any additional debt, let alone cover costs of bus and rail operations.⁶⁴ Key projects were retained however construction schedules had to be adjusted: the first leg of the Pasadena Blue Line was re-scheduled to open by FY 1996-97, and be fully completed by FY 1997-98; the Green Line North Coast extension and the Blue Line Downtown Connector would be similarly delayed.

Outside accountants who reviewed the budget for the Board likewise warned that the long term financial impacts of increased debt financing were unknown but were not consistent with the assumptions in the 30-Year Plan and the 10-Year Implementation Plan. They recommended an immediate reassessment of the 30-Year Plan and the long

⁶³MTA 1993-94 Budget, page 7.

⁶⁴In FY 1993-94 the Proposition C 40% Discretionary Fund was sufficient to cover the projected bus operations shortfall, rail operations and other costs. The demands on the Fund included debt service for rail projects (beginning FY 1994-95), rail operations costs and miscellaneous other expenses. Beginning in FY 1994-95, these funds would be fully committed and insufficient to address the projected shortfall. By 2002, debt service alone would entirely consume the fund. Solutions, Chart 5.

range financial plan in light of the changed conditions.⁶⁵

To complete the Red, Blue and Green lines within ten years, staff proposed a 10-year financial program, known as the Operations and Capital 10-Year Solutions Report⁶⁶ designed to generate \$1.7 to \$1.9 billion to continue the rail construction program.⁶⁷ Measures included transferring state rail bond proceeds to the Green Line, bonding against Proposition C 25% Transit Related Highway funds,⁶⁸ and obtaining federal funding for the Pasadena Line or constructing the project in a series of smaller segments.⁶⁹

The Solutions Report assumed voter approval of state rail bond proposals in November 1993 and 1994, as well as passage of a new revenue source equal to an

⁶⁵Coopers & Lybrand, Review of the Los Angeles County Metropolitan Transportation Authority's FY 1993-94 Proposed Budget Submitted to the Board of Directors for the June 30, 1993 Meeting, July 27, 1993.

⁶⁶MTA, Proposed Operations and Capital 10-Year Solutions, June 16, 1993 [hereinafter "Solutions Report"].

⁶⁷The Solutions Report presented the following fiscal outlook:

	Before Solutions	Solution Additions	With Solution Additions
Rail Operations	\$1,220 M	\$480 M	\$1,700 M
Rail Capital	\$4,350 M	\$1,850 M	\$6,200 M
Bus Operations	\$6,100 M	\$1,100 M	\$7,224 M
Total	\$11,670 M	\$3,430 M	\$15,124 M

⁶⁸Rail construction is a specifically authorized use of the 40% Discretionary Funds, but is not specifically mentioned as an authorized use of the 25% Transit Related Highway funds.

⁶⁹The Blue Line and Green Line had been funded entirely through state and local sources. The only projects to receive federal funds were the Red Line MOS-1, MOS-2 and MOS-3. The federal contribution was less than 50%.

additional 1/4 cent sales tax. To construct all committed rail projects, the plan counted on \$205 million in operating cost savings, \$678 million in reprogrammed funds and additional borrowing, \$126 million in capital cost savings, \$200 million in state rail bonds, and \$30 million in additional fare revenues together with \$1,117 million in additional unspecified revenues.⁷⁰ According to the report, the total additional revenues generated by the proposal would be \$2,350 million for rail operations and capital.

Enterprise Fund

Like the Capital Fund, the Enterprise Fund was in trouble, too. Bus and rail boardings were estimated at approximately 400 million passengers annually.⁷¹ Projections showed a decline in fare revenues of over \$100 million from the previous year and an estimated deficit of \$117 million in bus operations. While the MTA staff tended to refer to the cost of providing rail service as rail operations, the cost of bus service was deemed the bus shortfall. This shortfall was the result, in part, of

⁷⁰Still, the Pasadena Blue Line and Red Line projects would have to be delayed beyond the time frame in the 30-Year Plan to close an immediate funding gap of \$303 million. Construction of the first phase of the Pasadena Line would have to be stretched out by one year and the Red Line by 30 months. The proposed budget recommended partial funding of the Pasadena Line at \$40 million to begin final design work. Even with these measures, there would be no funds available to pay for other projects such as the SFV East/West Line or any of the Candidate Corridors before 2000. Memo to MTA Board from Franklin White, An Explanation of Trade-offs and Their Implications for Consideration in the FY 1993-94 MTA Budget, July 12, 1993.

⁷¹The budget assumed a bus revenue service level of 6.9 million hours with a light rail revenue service level of 81,000 hours and a heavy rail revenue service level of 16,000 hours. MTA 1993-94 Budget, page 4.

increasing costs, declining fare revenues, declining sales tax receipts, and lower formula allocation subsidies.⁷² The budget called for procuring 320 new transit buses and paratransit vehicles. This reflected an attempt to minimize impacts on bus ridership while continuing construction on the Metro Rail System.

In essence, the MTA's Solutions Report relied on belt tightening and fund transfers, drawing down reserves, and using cash earmarked for capital projects to pay current operations. Even with these solutions in place, the report concluded that resources would only be sufficient to cover future debt service, rail operations and other miscellaneous expenses. From FY 1993-94 onward, however, all Proposition C 40% Discretionary Fund would be committed to rail operations leaving nothing in reserve to cover any *bus* operating costs (see Table 7.5).⁷³

⁷²The bus operations of the MTA continued to receive operating subsidies from a combination of Proposition A 40% Funds, state Transportation Development Act (TDA) funds, State Transit Assistance (STA) funds, and federal operating assistance, just as the RTD had. In FY 1988-89, the RTD had received \$340 million under the LACTC's Formula Allocation Procedure (FAP). Each year thereafter through FY 1993-4, the amount declined.

⁷³All system generated fares were being applied to bus and rail operations and operating capital needs. Of the other potential revenue sources all Prop A local return monies were distributed among the various transit providers in the county. The portion available to the MTA was already accounted for in the budget. The 35% Rail Fund portion was committed to repaying existing bonds and all future borrowing capacity was committed to be used to complete the Red Line. Of the 40% Discretionary Fund, 95 percent was distributed to local bus operators thru the MTA's Formula Allocation Procedure (FAP) and the remaining 5 percent was allocated to its Incentive program which primarily funded paratransit services in support of the County's ADA program. In short, no additional Prop A funds were available for the Enterprise Fund bus and rail operations.

Proposition C 20% local return monies were distributed the same as Prop A local return monies. The 25% Highways Fund was committed to HOV, TSM, TDM and TOS projects. In the FY 1993-94 budget, the Board approved the use of these funds to complete the Green line, thus lessening demand on other funds, but the proceeds of this fund were fully committed over the next four years. By law the 10% Commuter

(continued...)

Table 7.5. RTD/MTA Bus Operations Funding Sources, FY 1991/90 -1994/95 (\$ Millions)

	ACTUAL		ESTIMATES	PROJECTED	
	FY 1990-91	FY 1991-92	FY 1992-93	FY 1993-94	FY 1994-95
Prop C/ Reserves		\$12	\$95	\$117	\$0
Form ula Allocation Procedure	\$316	\$298	\$270 *	\$260	\$262
Other	\$30	\$56	\$50	\$36	\$41
Fares	\$239	\$223	\$199	\$217	\$223
Total Revenues	\$585	\$586	\$614	\$630	\$526

* Federal Section 9 (\$38 M); State TDA (\$126 M); State STA (\$8 M); Proposition A (\$98 M)

Source: MTA, Proposed Operations and Capital 10-Year Solutions, June 16, 1993, Chart 2.

The FY 1993-94 budget recommended using all remaining Prop C sales tax reserves to cover the \$117 million bus operations shortfalls until a more complete study and recommendations could be completed that would address improving bus and rail quality, cost cutting, and equity issues. That would exhaust all available reserve funds;

⁷³(...continued)

Rail funds could not be used for bus or urban rail operations. The 5% Security fund was also fully committed. The only Proposition C monies that were potentially available were from the 40% Discretionary Fund but these had already been pledged toward debt service on previously issued bonds and other prior commitments.

there would be no reserves left to address projected deficits in the following years. Over the next ten year period the operating deficit would reach \$1.1 billion. The budget left this problem to be addressed at a later time.⁷⁴ While the budget proposed no fare increase for FY 1993-94, it made clear that new revenues, service and fare changes would be needed in FY 1994-95.⁷⁵

Sceptics within the MTA warned White that the FY 1993-94 budget and the Solutions Report on which it was based were deeply flawed. The agency's Controller, Tom Rubin, insisted that the budget problem was even worse than presented and that rail capital cost overruns and rail operating subsidies would be far larger than assumed. Moreover, the funds used to back the increased debt requirements would reduce available funds for bus operations, contrary to the original intention of Proposition C. He pointed out that the Solutions Report only identified a handful of one-time measures to erase the projected one year \$123 million shortfall (of which only a portion was realistic) but relied on unspecified future savings and revenues to address the projected \$1.1 billion deficit over the next ten years. In other words, the 10 year-program simply *presumed* elimination of the \$117 million structural deficit in future years. Finally, Rubin criticized the 30-Year Plan, on which the entire budget was based, as full of wholly unsupportable

⁷⁴ MTA Budget Workshop, June 28, 1993, p. 18.

⁷⁵The possible short term solution to the looming FY 1994-95 fiscal crisis incorporated a number of elements, including reducing transit service by 5% to raise \$22.4 million and increasing fares by 10% to generate \$21.0 million in new revenues. MTA, Solutions Report, Chart 3A.

financial assumptions. He urged White to disavow the 30-Year Plan as flawed and worthless and to prepare a new plan based on existing revenues, to stop all studies for future rail projects, postpone the Pasadena Blue Line indefinitely, and delay the Red Line MOS-3 project.⁷⁶

Public Opposition to the Budget Proposal

By this time even the most ardent rail proponents in the MTA began to recognize that the agency could no longer adhere to its 30-Year Plan in light of the budget crisis. Beginning in FY 1995-96 funds available in the Proposition C 40% Discretionary funds would be insufficient to pay for rail operations. By the year 2002, those funds would not be enough to cover the debt service on bonds to pay for rail construction. In order to meet the 10 Year Capital Plan for rail construction, the MTA staff proposed a number of cost saving measures as well as borrowing against Proposition C 25 % Rail funds and restructuring the financing for the Pasadena Blue Line extension, as recommended in the Solutions Report.

Others outside the agency also attacked the proposed budget. On June 15, 1993, members of the Labor/Community Strategy Center (L/CSC) met with White to urge a

⁷⁶Memo from Tom Rubin to Franklin White, Review of FY94 Budget, June 18, 1993.

moratorium on all existing rail expenditures.⁷⁷ They argued that it was reckless to proceed on projects for which no funding was available. White was sympathetic to their concerns but responded that sales tax revenues were lower than anticipated and that cost overruns were eating into agency revenues. He agreed, however, to reexamine the MTA's 30 Year Plan in light of the new fiscal constraints. The Center followed up the meeting by proposing that the MTA spend \$1 billion a year above farebox revenues over the next five years to improve the bus system before awarding any additional rail construction contracts.

In July 1993, the L/CSC sent a letter to the MTA Board and CEO White urging an immediate moratorium on spending for rail projects in light of the projected deficit. The letter demanded that \$1 billion be allocated to maintain and improve the bus system before awarding any further rail contracts. It pointed out that the 4,000 mile bus system serves 1.5 million riders per day, three times what the proposed 400 mile rail system was ever projected to serve. The Center charged that the MTA's proposed FY 1993-94 budget would implement millions of dollars in service cuts and fare increases to sustain the rail program, even though the bus system was seriously overcrowded and bus patrons received the lowest per trip subsidy of any major transit operator in the U.S. The L/CSC argued that rail would not serve the needs of working class communities of color who use public transit, and that while some South Los Angeles residents may use the Blue Line,

⁷⁷Mann (1997).

most still depended on buses. It continued:

Running a highly capitalized rail system through a transit-dependent community while neglecting and in fact defunding the transit system carrying the vast majority of riders is a short sighted and inequitable transportation strategy.⁷⁸

The Center's vision of mass transportation differed greatly from that of the Board of the MTA. Where the MTA tended to focus on technical measures of transit system performance, the L/CSC concentrated on what it was like from the riders point of view, arguing that people who did not own cars needed a transit system that provided them with *good local service* whereas rail is designed primarily to accommodate regional trips. They pointed out that the entire planned rail system had fewer than 250 stops whereas the present bus system alone had some 30,000 stops. While the regional trips for which rail was designed could also be served with express bus service, very few local trips can be served by rail because the stops are too far apart from each other, and the rail system is not nearly as comprehensive as the bus system.

The L/CSC further accused the MTA staff of creating funding scenarios which

⁷⁸Letter from Labor/Community Strategy Center to MTA, July 26, 1993 (emphasis in original).

would institutionalize the further erosion of the bus system. The center objected to the fact that under the Board's plans, over the next 10 years all discretionary Proposition C money would be used to service debt for rail construction; no Proposition C funds would be allocated to buses after 1994. In a *Los Angeles Times* commentary, L/CSC head Eric Mann charged that the MTA's idea of mass transit was a class-biased, third rate bus system for working people, people of color, the young, the old, and the disabled. He now called on the MTA to spend \$1.5 billion each year over the next 10 years to improve bus service. As part of its campaign for transit equity, the L/CSC adopted a Four Pillars strategy based on 1) ridership needs, 2) environmental quality and energy efficiency, 3) job development, and 4) community revitalization.⁷⁹

These competing visions of what goals mass transit should serve would clash in the lawsuit that the L/CSC and other advocates for the poor would bring against the MTA over fare increases ordered by the MTA Board the following year. In the meantime, the MTA still found itself facing declining revenue projections and burgeoning construction cost overruns, forcing it to at least consider scaling back its 30-Year rail program. Funding shortfalls brought competing priorities between existing bus service and new rail construction into sharp relief. Competing interests, particularly those represented by the L/CSC, helped to crystalized the tension politically outside the MTA, after the merger had sought to internalize such tensions.

⁷⁹*Los Angeles Times*, August 24, 1993.

Additional groups also became involved in protesting the Board's action. A grass-roots organization of youths in the Pico Union neighborhood just west of downtown, calling themselves *Unidos Mejorar El Transporte de Pico-Union* (United to Improve the Transportation in Pico Union), with assistance from *El Rescate*, a local immigrant service organization, called on the MTA to provide better bus service to the inner city area. The group complained that the bus network was being allowed to deteriorate to fund expensive rail services to benefit suburban riders from the San Fernando Valley.⁸⁰

The Board voted to approve the budget.⁸¹ However, it also approved a motion by Mayor Riordan to restore funding for the Blue Line extension to Pasadena (which would serve the downtown area) and to proceed with planning and engineering studies for the Pasadena Line in an amount not to exceed \$97 million. The Board also directed staff to prepare a multi-year management plan for controlling and eliminating bus and rail operating deficits and to aggressively pursue and secure additional local, federal, and state dollars for transportation purposes to ensure that the planned rail capital programs

⁸⁰Patrick J. McDonnell, "Youths Call for Improvement in Inner-City Bus Service," *Los Angeles Times*, August 14, 1993, Metro, Part B, page 3, col. 2; Doherty, Jake, "Youths Make Case for Better Bus Service," *Los Angeles Times*, City Times, page 6, August 15, 1993.

⁸¹In approving the \$3.66 billion FY 1993-94 budget, the MTA Board did agree to program \$4.5 million for the Immediate Needs Transportation Program to relieve overcrowding on the 25 most crowded lines, \$6.2 million to restore earlier bus service cuts, and authorized \$18 million to be distributed to local cities on a formula share basis to enlarge the countywide bus capital program. Staff was also directed to develop a new funding plan for future rail construction. MTA Special Board Meeting Minutes/Proceedings, June 30, 1993.

remained on schedule. Riordan's motion was to prove a pivotal event in the growing dispute between the MTA and the L/CSC as it forced the agency to directly confront the issue of increasing fares to raise revenues to sustain the rail program. The motion specifically directed staff to identify alternative funding sources in the amount of \$57 million and cost savings of \$6 million for future debt service for the Pasadena Line project.⁸² It also directed the staff to prepare a multi-year plan to eliminate bus and rail operating deficits.⁸³

Meanwhile, the Board also began implementing portions of the 10-year Solutions Report to save the rail program by authorizing the issuance of \$158 million in new bonds (beyond the amounts in the Call for Projects), backed by Proposition C Transit on Highways (TOS) funds to pay for construction of the Green Line⁸⁴ and reprogrammed \$100 million more from the Proposition C 25% local TSM, TDM, and bikeway projected reserves along with \$50 million from the TOS reserves to the Green Line (for a total of \$308 million).⁸⁵ In addition, they agreed to set aside state bond funds for the San Fernando Valley East/West Line and the Pasadena Blue Line and to seek authority from

⁸²The Finance, Budget and Efficiency Committee eventually recommended using \$30 million from the TOS/Prop C 25% Fund, \$20 million from State Rail Bonds and a \$7 million loan from the City of Pasadena to fund the Blue Line.

⁸³MTA, Minutes/Proceedings, August 25, 1993; Anne Rackham, "MTA embeds hopes for Pasadena railway line in \$3.7 B budget," *Los Angeles Business Journal*, August 30, 1993.

⁸⁴These funds would be paid back from future unspecified sources.

⁸⁵These would be paid back with future ISTEQA CMAQ funds.

CalTrans to reprogram \$106 million from the North Coast Extension to the Green Line.⁸⁶

Ultimately, the financial problems facing the agency would force it to reluctantly scale back its rail program, and consider some less costly alternatives. In the meantime, in spite of the lack of fiscally prudent leadership by the Board, there were ongoing and surprisingly principled efforts by the MTA staff to grapple with fare equity issues even to the brink of fiscal collapse.

Fare Restructuring Committee

Even before completing work on their first budget, the MTA Board of Directors had appointed a committee, known as the Ad Hoc Fare Restructuring Committee (FRC), to consider potential changes to fare policies with the aim to generate \$15 million to \$20 million in additional revenues in FY 1993-94. The purpose of the FRC as set forth in its Mission Statement was to oversee an analysis of alternative fare structures and policy options for MTA bus and rail operations in order to increase mobility, reduce congestion, and enhance revenue. The FRC would also advise the MTA Board on financial, equity and operational assessments of alternative fare policy options. The Chairperson of the Committee was Antonio Villaraigosa, County Supervisor Gloria Molina's alternate on

⁸⁶MTA Board Minutes/Proceedings, August 25, 1993

MTA Board, and a local labor leader who later won election to the State Assembly in 1994, serving for a term as its Speaker. He is now the current mayor of Los Angeles, after defeating the incumbent James Hahn, son of the late Supervisor Kenny Hahn.

Villaraigosa had been publically critical of the old LACTC, charging that it was creating a two-tier transit system by catering to wealthy suburbanites by subsidizing Metrolink and other rail projects while turning its back on inner-city transit dependents. He had urged the LACTC to spend more money on the bus system, and argued that any budget cuts should fall on the rail program, rather than the bus system.⁸⁷

The FRC began meeting in May of 1993 by examining the work on fare restructuring done by the RTD staff the previous year. Chairperson Villaraigosa proposed to assess existing fare policy and consider the alternative analyses and recommendations from the Third Party Task Force according to three principles: (1) simplifying the fare system, (2) improving equity among rider groups, and (3) maximizing ridership and revenue. These short term objectives would also be evaluated against the proposed FY 1993-94 budget.

As for the first goal, the MTA at this time had four different fare media: cash,

⁸⁷Ryan Snyder and Antonio Villaraigosa, Perspectives on Public Transit; Commuting on the Backs of the Poor, Metrolink Subsidies Widen the Distance Between the Suburban Haves and the Urban, Bus-Riding Have-Nots . *Los Angeles Times*, November 27, 1992, Metro, Part B, Page 5, Column 3. Mayor Villaraigosa is currently calling for extending subway service along Wilshire Boulevard to the City of Santa Monica.

tokens, transfers and monthly passes. Different fare categories of riders used different media to varying degrees. The committee wanted to explore options for reducing the number of fare categories, and reducing the number of media required to implement a specific set of fare categories.

Improving equity, the second goal, could mean either that (1) riders pay in proportion to the amount of service consumed (distance based pricing), (2) riders pay in proportion to the cost of services consumed (peak/off peak and premium based fares), or (3) riders pay in proportion to each rider's ability to pay (need based pricing). The third committee objective was to assess the pros and cons of charging premium fares for premium service and the prospects for linking increased revenues from any fare restructuring to specific improvements in service.⁸⁸

In July 1993, the FRC considered five different fare restructuring scenarios. Four of those scenarios, one a peak/off-peak scenario, were designed to equalize revenues between cash fares and passes, as discussed in the previous chapter. All were intended to accomplish the multiple objectives of fare structure simplification, revenue enhancement, improved equity, eliminating cost per boarding differences based on method of fare payment, charging premium fares for premium service, and pricing fares based on ability to pay. The proposed base fares ranged from \$0.80 to \$1.10 and pass prices from \$57 to

⁸⁸MTA, Agenda, Memo, Revised Mission Statement, Historical Fare Structures, Fare Restructuring Objectives, June 17, 1993.

\$65. The higher pass prices were intended to better reflect the actual cost of service consumed by pass users. The committee also considered one needs-based scenario that would offer differentiated fares for those living below the poverty level and those earning up to 140 percent of the poverty rate, in order to better relate fares paid with ability to pay.⁸⁹

The MTA Board's decision to restore funding to the Pasadena line in connection with approving the 1993-94 budget, however, significantly affected the direction of the fare restructuring effort. From this point forward the need to raise substantial new fare revenues began to overshadow the previously-described equity concerns of the Ad Hoc Fare Restructuring Committee and staff began to shift the discussion from balancing the Committee's various declared objectives to meeting the overriding need for revenue enhancement. The L/CSC admonished the MTA for moving toward deep service cuts and fare increases to balance the budget so as to keep its numerous rail projects on track. It asked the Board to adopt a moratorium on rail contracts, particularly the Pasadena project, until bus service improvements could be considered.⁹⁰

The FRC examined several different fare proposals in September and October. The committee initially considered a number of options to implement some form of

⁸⁹MTA, Agenda Memo, Alternative Fare Scenarios, July 29, 1993. (951524)

⁹⁰MTA, Minutes/Proceedings, September 15, 1993.

peak/off-peak pricing with different pricing levels. It also examined distance-based pricing as another alternative. Detailed descriptions of these options are presented in Appendix A. Another option considered was to equalize rail and bus subsidies. The level of operating subsidies for the buses were much lower than for the Red and Blue lines or the Metrolink commuter trains, as shown in Table 7.6, although some argue that per passenger subsidies should be lower on rail. Staff concluded, however, that equalizing subsidies on a per boarding basis would require rail fares be set counter to MTA objectives to offer similar fares on the bus and rail system. Equalizing the subsidy per boarding between bus and rail would mean setting rail fares at \$4.50 to \$7.00 compared to the \$1.10 base bus fare.⁹¹ Alternatively, bus and rail fares could be set to equalize per passenger mile subsidies between the bus and the Blue Line. The rail fare would need to be \$1.35, however according to staff projected ridership would decrease 5 percent from 37,000 to 35,000 weekday boardings though revenue would increase from \$6.0 million to \$7.7 million.⁹² In the end, the FRC chose to confine its analysis to just three basic fare restructuring scenarios:

⁹¹The Blue Line would need average fares of \$2.15 or a base fare of \$4.61. The average on the Red Line would be \$2.71 with a base fare of \$6.67. Note that security costs are not included in these estimates which vary widely by mode on per passenger basis. Security costs on the Blue Line were many times that of buses. , Woodbury Dana, MTA Memo to Fare Restructuring Committee A Fare Structure to Equalize Rail And Bus Subsidies, January 4, 1994 [hereinafter FRC Fare Structure Memo.]

⁹²FRC Fare Structure memo.

- (1) \$0.85 base cash fare with no transfers,
- (2) \$1.10 base cash fare with transfers, and
- (3) \$1.25 base cash fare with proportional increases in pass prices.

The first scenario would generate an additional \$40 million, but rather arbitrarily punish riders who have to make transfers, while the next two would only raise \$25 million.⁹³

Table 7.6. MTA Bus and Rail Operating Subsidies, 1993-94

Mode	Daily Riders	Operating Budget FY 93-94	Subsidy/ Ride	Subsidy/Mile
Bus	1,100,000	\$620.6 M	\$1.16	\$0.30
Blue Line	37,800	\$36.3 M	\$3.15	\$0.35
Red Line	17,450	\$17.9 M	\$3.83	\$2.95
Metrolink	17,400	\$39.7 M	\$9.86	\$0.34

Source: MTA Fare Restructuring Committee memo, January 4, 1994.

A major concern of the Fare Restructuring Committee continued to be what impact these various fare proposals might have on different groups of MTA patrons. The staff found that in comparing the demographic composition of MTA riders to the general

⁹³The average cost of a cash/token ride was \$1.04 while each transfer cost about \$0.25. Regular pass riders paid on average \$0.42 per ride and E/D pass users paid only \$0.19. Student (K-12) and college/voc ed pass users paid \$0.33 and \$0.58, respectively. An express pass holder paid \$1.22 per ride.

population of L.A. County one of the most dominant characteristics of MTA ridership that distinguishes it from the county-wide average is household income.⁹⁴ Nearly 62 percent of MTA riders were from households with yearly incomes under \$15,000 compared to less than 22 percent of county residents. Almost 85 percent of all patrons earned less than \$30,000, while less than half of county residents did. Conversely, only 5 percent of MTA riders made over \$50,000 compared to almost 29 percent of the county population. Over half of all MTA patrons lacked access to an automobile versus only 11 percent of the county. In a conclusion that would later be frequently cited by the plaintiffs in their lawsuit against the MTA, the MTA staff concluded: MTA riders are profoundly poor and dependent on some form of public transit for their mobility needs.⁹⁵

The ethnic makeup of MTA passengers also differed from the county as a whole. As shown in Figure 7.8, 80 percent of transit riders were non-white compared to a county average of less than 60 percent. Almost one half of MTA riders were Latino though Latinos make up just over one-third of the county population. The percentage of African Americans who riding transit was twice the countywide proportion. Staff described the typical MTA rider as a person of color, Latino or African American, in her twenties, with a household income under \$15,000 and no car available to use in lieu of public

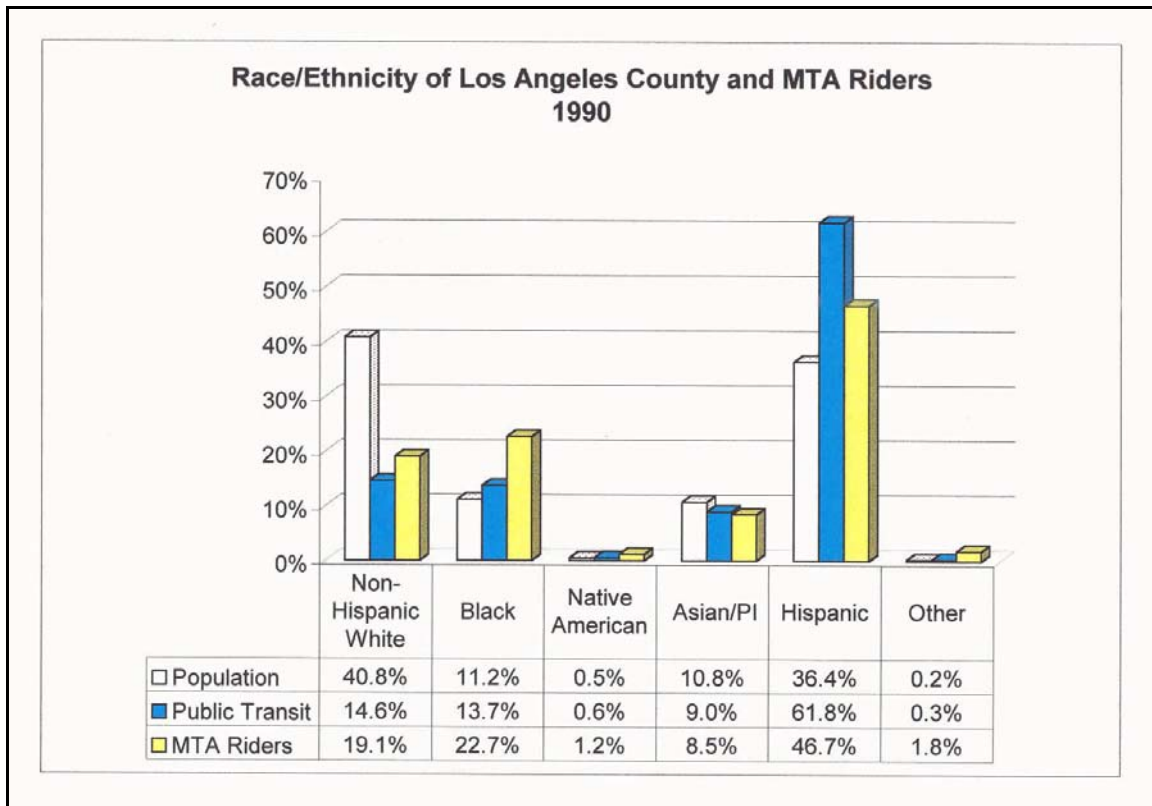
⁹⁴Fare Restructuring Committee memo, Comparing the Demographic Composition of MTA Riders with the Population of LA County, January 20, 1994, , hereinafter FRC Demographics Memo , p. 2

⁹⁵FRC Demographics Memo, p. 3.

transit.⁹⁶

⁹⁶FRC Demographics Memo, p. 3.

Figure 7.8. Demographic Comparison of LA County Transit Riders and Population



Source: 1990 U.S. Census.

The use of modes and fare media also varied by income and ethnicity. A total of 20 percent of all pass users made under \$40,000 compared to 15 percent of all cash riders. Pass riders also tended to have higher auto availability. Since pass users had, on average, slightly higher incomes than regular cash fare patrons, to some extent, lower income cash

riders were cross-subsidizing higher income pass riders.⁹⁷ However, there were also differences within the category of pass users. Those using senior/disabled passes had lower than average incomes, were more likely to be white and Asian, and made more trips involving transfers. Those using a college/vocational education pass had incomes much lower than average. Regular pass users tended to have only slightly higher incomes than cash riders, while express pass holders tended to fall more in the upper income categories, were slightly older and were more likely to be white.⁹⁸ In fact, as shown in Table 7.7, only express pass holders had significantly higher than average incomes, not regular pass holders. Higher income riders tended to complete their trips with fewer transfers, while lower income riders made more transfers.

Staff concluded that both increasing fares and eliminating passes would disproportionately affect minority and poor riders.⁹⁹ Their presentation to the Board acknowledged that an all cash fare would tend to raise costs for riders with slightly

⁹⁷MTA Fare Restructuring Committee memo, Impacts of Fare Restructuring Across Demographic Categories, January 21, 1994 [hereinafter FRC Impacts Memo]. Senior/disabled, student and college/vocational education pass users tended to be poorer than the ridership as a whole, while regular pass users were slightly above average. Express pass users had the highest incomes but made up less than 4% of all riders, and 65% of these riders still earned less than \$30,000.

⁹⁸FRC Impacts Memo.

⁹⁹For those who could afford them, eliminating the \$42 monthly pass would mean, according to the MTA report, an average 63% increase in monthly transit costs to \$68.50 assuming their riding patterns did not change. The typical bus rider family with a household income under \$15,000, with two members who buy and use monthly passes could their see transit costs increase by over \$500 per year, or over 4% of their household take home pay. Rubin (1994), p. 2.

higher incomes than average.¹⁰⁰ They went on to point out, however, that:

By no means, though, would these be considered financially well off or wealthy. Over one-half have reported incomes under \$15,000, while only seven percent have household incomes of \$50,000 and over.¹⁰¹

Staff reminded the Committee that a rider described as having a lower than average income was in fact an *extremely poor* rider, since the vast majority of riders were already poor. It was not evident that cash riders could afford monthly passes any less than other poor riders (59% of cash riders earn under \$15,000 compared to 53% of pass riders). Also, some poor cash riders might simply not use transit enough to make the pass economical. Express pass riders clearly earned more, but they paid a premium for express service, and moreover express holders constituted less than 4 percent of all riders. Eliminating all passes to achieve equity between regular and express riders would seem to have the greatest negative impact on poor regular pass riders, not express patrons.

MTA staff was clearly concerned about the equity impact of current and alternative fare policies, though such concerns were ultimately brushed aside by the Board.

¹⁰⁰A cash fare was defined to mean paying by cash, tokens, or using a senior/disabled monthly pass.

¹⁰¹Fare Restructuring Committee Memo, Impacts of Fare Restructuring Across Demographic Categories, January 21, 1994.

Table 7.7. Fare Payment Media by Income Group

Fare Media	< \$15K	\$15-30K	\$30-50K	> \$50K	All Income
Cash/Token	82,589,781	33,531,470	17,251,143	7,232,926	140,491,632
Row Percent	58.8%	23.9%	12.3%	5.1%	100.0%
Column Percent	35.5%	36.9%	40.9%	33.5%	36.3%
Transfer	25,358,553	10,450,187	3,458,664	1,792,038	41,025,105
Row Percent	61.8%	25.5%	8.4%	4.4%	100.0%
Column Percent	10.9%	11.5%	8.2%	8.3%	10.6%
Regular Pass	50,251,811	26,352,646	11,767,895	6,390,884	94,048,117
Row Percent	53.4%	28.0%	12.5%	6.8%	100.0%
Column Percent	21.6%	29.0%	27.9%	29.6%	24.3%
E&H Pass	45,366,218	10,359,316	4,344,420	1,532,948	61,924,686
Row Percent	73.3%	16.7%	7.0%	2.5%	100.0%
Column Percent	19.5%	11.4%	10.3%	7.1%	16.0%
Student Pass	9,305,891	2,726,136	1,307,544	863,633	14,320,084
Row Percent	65.0%	19.0%	9.1%	6.0%	100.0%
Column Percent	4.0%	3.0%	3.1%	4.0%	3.7%
College/Voc. College/Trade School	19,726,185	18,719,589	674,861	820,451	18,190,377
Row Percent	75.5%	14.0%	3.7%	4.5%	100.0%
Column Percent	5.9%	2.8%	1.6%	3.8%	4.7%
Subtotals	226,598,442	85,964,149	38,804,528	18,632,881	370,000,000
Row Percent	61.2%	23.2%	10.5%	5.0%	100.0%
Column Percent	97.4%	94.6%	92.0%	86.3%	95.6%
Express Pass	5,118,240	3,907,461	2,615,088	2,547,717	13,933,054
Row Percent	36.7%	28.0%	18.8%	18.3%	100.0%
Column Percent	2.2%	4.3%	6.2%	11.8%	3.6%
Other	930,589	999,583	717,040	388,635	3,096,234
Row Percent	30.1%	32.3%	23.2%	12.6%	100.0%
Column Percent	0.4%	1.1%	1.7%	1.8%	0.8%
All Riders	232,647,271	90,871,193	42,178,835	21,590,824	387,029,289
Row Percent	60.1%	23.5%	10.9%	5.6%	100.0%
Column Percent	100.0%	100.0%	99.9%	99.9%	100.0%

Source: MTA Fare Restructuring Committee Memo, January 21, 1994.

In adopting the FY 1993-94 budget, the Board had also directed its staff, through the Finance, Budget and Efficiency (FB&E) Committee, to make recommendations to reduce the projected operating and capital program shortfalls. The FB&E Committee developed a Special Work Program (SWP) to address the shortfalls through internal cost reductions, new fare charges, service changes, labor contract changes, and new revenue sources. Bus and rail operations shortfall for the succeeding fiscal year was estimated to be \$126 million (see Table 7.7) and the capital shortfall \$170 million. According to the FB&E Committee, rail construction problems would become unmanageable by FY 1996-97. Even omitting the Pasadena Line, the Red Line alone would need a total of \$252 million in additional funds (\$177 million to be pledged by the City of Los Angeles, and benefit assessment district funds of \$75 million).

Balancing the budget was necessary to continue to receive federal funding. Federal regulations require that the MTA's Transportation Improvement Program (TIP) must be financially constrained and that all capital and operating programs can be funded with reasonably expected revenues. The local TIP's become part of SCAG's Regional Transportation Improvement Program (RTIP) which must be approved by the FTA before local agencies may receive their shares of federal transit funds. The SWP was part of the MTA's strategy to convince county and federal agencies that it could resolve its existing

budget problems.¹⁰²

The FB&E Committee concluded that keeping to the rail construction schedule would be difficult unless additional funds could be identified to reduce dependence on Prop C 40% Discretionary funds. Even with internal cost savings,¹⁰³ The FB&E Committee concluded that the budget could be balanced only if the Board would vote to implement some or all of these recommendations the Ad Hoc Fare Restructuring Committee had developed for possible fare modifications, including varying subsidy rates by type of service, distance-based pricing, peak/off-peak pricing, changes in the cost of transfers, monthly passes, and tokens.

The FB&E Committee developed a public outreach program designed to educate the public about the need to revise the current fare structure, proposed fare scenarios, operations shortfalls, and to solicit public comment. The initial stage would consist of presentations before community organizations, chambers of commerce, homeowners associations and other interested groups. The second stage would involve public

¹⁰²SCAG is also required to produce a regional transportation plan. The Regional Mobility Element (RME) of the Regional Comprehensive Plan satisfies this requirement. The MTA's Long Range Transportation Plan (LRP), then under preparation, when completed would be included in the RME which had to be adopted and demonstrated to be financially constrained to reasonably available resources before SCAG could adopt the Regional Transportation Improvement Plan (RTIP). Since the SWP and the FY 1994-95 budget had not yet been completed, the LRP was prepared on the assumption that the budget shortfall would be eliminated.

¹⁰³The FB & E Committee concluded that service delivery modifications could potentially save from \$33.7 million to \$81.2 million annually. Additional cost savings in the range of \$8 million to \$16 million could be achieved in administrative overhead.

meetings in each of six geographic areas of the county at times convenient for transit riders. Finally, there would be a formal public hearing on the fare proposals as required by law.¹⁰⁴

The Board subsequently held a workshop and hearings on the fare plan, in which one thousand members of the public participated. Various possible changes to MTA bus and rail fares and services were discussed. The fare options presented to the public included (1) proportional fare increases, (2) cash-only fare structures, and (3) peak/off-peak pricing (see Table 7.8). Service changes included eliminating owl service (1 - 5 a.m.) on some lines, canceling weekend and holiday service, special event service, and bus lines that paralleled rail service, as well as other service modifications.

¹⁰⁴Memo to FB&E Committee, Special Work Program (Agenda Item 1), January 13, 1994.

Table 7.8. Comparison of Proposed Fare Structures

Fare Category	Peak/Off-peak Plan	All Cash Plan	Proportional Increases Plan	Existing
Cash				
Regular	\$1.25/\$1.00	\$1.10	\$1.25	\$1.10
Tokens	\$1.00	\$0.90	\$1.00	\$0.90
Transfers	\$0.30	\$0.25	\$0.25	\$0.25
Express	\$0.50	\$0.40	\$0.50	\$0.40
Elderly/Disabled	Full/Half	\$0.45	\$0.50	\$0.45
Pass				
Regular	\$62		\$48	\$42
Express Stamp	\$15		\$15	\$12
Elderly/Disabled	\$12	\$12	\$12	\$10
Student	\$20		\$24	\$18
College/Voc. Educ.			\$36	\$25
Revenue Impact (\$millions)	\$23.3	\$25.0	\$23.0	

Source: LAMTA, Notice of Public Hearing, 1994, Tables 1 & 2.

At the April 23, 1994 hearing, there was testimony by families, low income workers, blind and elderly persons, and night workers that they would suffer hardship from any proposed fare increase. A total of 175 speakers, including local, state and federal elected officials or their representatives participated. According to the TA s

official summary of comments, half of all the speakers opposed the fare changes and nearly all participants criticized the service changes that were being suggested. One thousand three hundred letters were received, along with 32 petitions. The Los Angeles City Council voted to oppose any fare increase and urged the MTA Board to lower bus fares to \$0.50. There was also opposition from transit managers and companies that relied on passes for their employees' transportation programs.¹⁰⁵ About one-third of the comments indicated a willingness to support higher fares provided the increases were moderate and service levels were maintained. There was little public support for peak/off-peak pricing. Many persons remarked that the present bus system was overcrowded and that service should be expanded.¹⁰⁶ Other respondents expressed alarm that MTA resources were being shifted to rail construction at the expense of the bus fleet and that the availability, quality, cleanliness and safety of the bus system was declining as fares rose. Still others remarked that the MTA was becoming a two class service: suburban express buses versus local buses, and all buses versus rail.¹⁰⁷

¹⁰⁵The City of Los Angeles Transit Subsidy Ordinance No. 64,483, provides that a company which provides free or subsidized parking for its employees must provide a transit subsidy to employees who utilize public transit. Many companies relied on purchasing monthly passes to meet this requirement.

¹⁰⁶Since FY 1990-91, service had been reduced from 7.2 million hours per year to below 6.9 million.

¹⁰⁷MTA memo, Approve findings of public testimony to April 23, 1994 Public Hearing for [etc.].

MTA Fiscal Year 1994-95 Budget

As previously noted, the \$117 million fiscal year 1993-94 bus operations deficit had been reduced through a combination of cost containment measures and use of accumulated reserves. Projections for FY 1994-95 were that operating demand net of fare revenues and FAP subsidies would leave a \$126.1 million bus and rail operating deficit (see Table 7.9) and a \$170 million deficit in the rail construction budget. The MTA again blamed the chronic budget crisis on increased operating costs (labor agreements and regulatory requirements) and declining fare revenues and tax subsidies due to the ongoing recession. More critically, all prior year reserves had been exhausted and were no longer available to ameliorate the situation. In addition, in 1994 debt service payments would begin for bonds issued for rail construction. The total of debt service, rail and bus operations and ADA compliance would exceed the Prop C 40% Discretionary funds collected.¹⁰⁸

¹⁰⁸In FY 94-95 there were \$147.8 million in Proposition C 40% funds available less \$22.6 million in unprogrammed funds (projected increased funding due to new UCLA forecast). Of the remainder \$65.6 million was committed to 1992 bond debt service (\$32 million), ADA (\$20.7 million), base bus service restructuring expansion (\$2.6 million) and the Union Station Gateway/MTA headquarters (\$7.3 million). Those commitments would basically remain through FY 1996-97. In addition, 1993 bond debt service would begin to be payable in FY 1995-96 (\$2.9 million). Adding \$26.9 million in other operating funds -- Prop C 5% funds (18.5%), no reserves, STA population share (\$8.4 million) left \$86.5 million available for operating and capital needs.

Table 7.9. MTA Enterprise Fund Structural Operating Deficit

	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97
Total Revenues	\$630.9	672.1	710.1	599.6	646.1	675.4
Operating Expenses	\$644.5	668.5	710.1	725.8	772.0	802.2
Balance	(\$13.6)	3.6	0	(126.2)	(125.9)	(126.8)

Source: MTA FY 1994-95 Budget.

As shown in Table 7.10, the FY 1994-95 MTA budget sought to partly eliminate the ongoing \$126 million structural shortfall in operating funds through a proposed \$0.25 fare increase that would take effect September 1, 1994, and which was projected to generate a net \$25 million the first year and \$51.4 million annually thereafter.¹⁰⁹ The fare increase was termed a "last resort" measure, designed in part to account for a 25 percent increase in the cost of living since the previous increase. Other offsets would come from in cost reductions,¹¹⁰ labor savings,¹¹¹ service cuts¹¹² and new revenue sources. Even with

¹⁰⁹For Fiscal Year 1994-95, the fare increase would generate \$40 million, but there would only be a net savings of \$25 million since fare revenues for Fiscal Year 1993-94 had been \$15 million below budget estimates.

¹¹⁰This included eliminating 269 positions for a savings of \$23 million. Since the MTA had been created a total of 500 positions had been eliminated. Another \$4 million in savings was due to a decision to have MTA Transit Police provide security for the Blue Line.

¹¹¹The MTA imposed a wage freeze on union workers to save \$11.6 million and on non-represented employees to save \$2.4 million.

¹¹²The cuts would save \$21 million, \$5 million of which would be reprogrammed to relieve overcrowding on the heavy use lines, for a net \$14 million. The service adjustments were designed to minimize high subsidy lines (those with low ridership), reduce the volume of bus service paralleling rail lines, and reduce
(continued...)

these proposed efficiencies, most of the recommended solutions were again one time measures that would not address the basic structural problems facing the agency.

Table 7.10. FY 1994-95 Deficit Reduction Plan (\$ Millions)

Internal Cost Reductions	\$27
Net Fare Adjustments	\$25
Service Adjustments	\$21
Labor Savings	\$14
New or Reallocated Resources	\$39
Total	\$126

Source: MTA FY 1994-95 Budget.

The MTA defended its nearly \$3 billion FY 1994-95 budget, including \$1.2 billion for rail capital projects and debt service, as an effort to minimize fare increases and develop a proposal that was fair and equitable to all bus and rail riders. As the staff report argued: This proposal seeks to provide equity to all persons using our services, and at the same time recognizes the economic needs of those most in need of transit.¹¹³

¹¹²(...continued)
service levels in line with ridership declines.

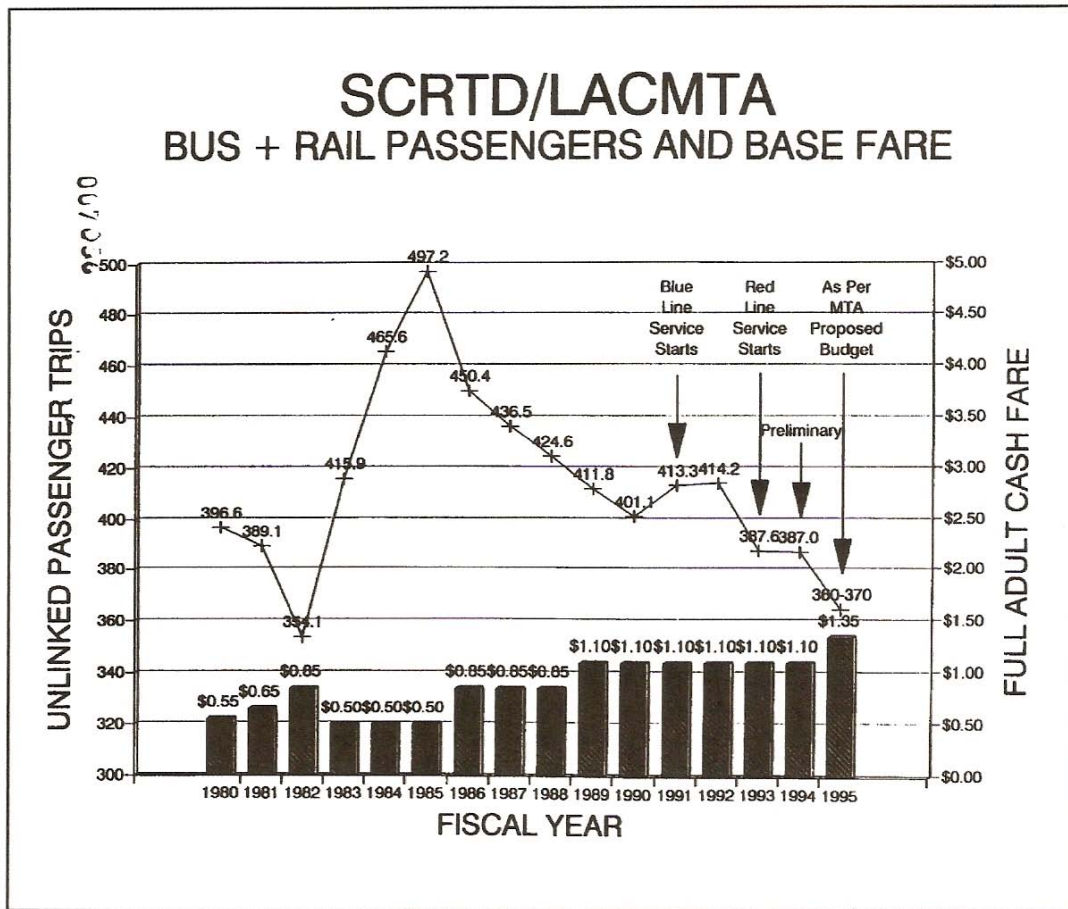
¹¹³MTA Fiscal Year 1994-5 Budget.

Among the reasons for seeking a fare increase, the budget document cited the fact that since the last fare increase in 1989, a number of factors had contributed to the need for additional revenues, including the merger of the LACTC and RTD which caused the MTA to reorganize and redefine many internal and external goals.

Also, the recession affected the MTA's ability to match state and federal dollars and issue debt. There was a shortfall of \$4 billion in STIP funds from the failure of Prop 1A and the failure of the \$1 billion Proposition 156 state rail bond initiative. Cash reserves to cover operating deficits had been depleted. And there were additional expenses from the 1994 Northridge earthquake.

The budget also reflected a shift in assumptions about ridership levels on buses versus fixed rail. It assumed a bus revenue service hour level of 6.5 million hours, or 400,000 fewer than the previous year. Light rail service was also expected to decrease from 81,000 to 73,500 hours. On the other hand, heavy rail operations were anticipated to increase from 16,000 to 19,300 hours. In all, combined bus and rail boardings were expected to fall to less than 370 million passengers annually, which merely reinforced the perception that the MTA was sacrificing the bus system to support rail (see Figure 7.9).

Figure 7.9. RTD/MTA Bus Fares and Ridership



Source: MTA Fiscal Year 1994-5 Budget.

A Discriminatory Fare Increase

To raise the additional revenues required to balance the MTA operations budget, the staff proposed that the Board adopt a 25 cent fare increase from \$1.10 to \$1.35 and eliminate the \$42 monthly pass, as well as streamlining some bus routes.¹¹⁴ Retaining the existing fare structure and increasing prices proportionally was rejected because it would not address the existing inequities. Peak/off-peak fares were also rejected as being too complex and difficult to implement. The MTA staff concluded that the proposal would improve fare equity between payment methods (cash versus pass) and improve modal fare equity (bus versus rail) while raising needed revenue.

Over half of all riders used some form of pass (regular, senior/disabled, student, college/vocational or express) to pay their fare. Staff acknowledged that the fare restructuring proposal was driven by the need to balance the budget. The proposal emphasized cash and tokens. The base fare would be \$1.35 cash, \$1.00 tokens, \$0.25 transfers and express bus distance-based zone surcharge of \$0.50. E/D cash fares would cost \$0.50 with \$0.10 transfers in accordance with federal regulations. Regular monthly and college/voc ed passes would be eliminated to improve equity between cash and

¹¹⁴The \$42 cost of the regular pass was calculated at 38 rides per month. The MTA found that average use was almost 100 times per month. As a result, pass users made 43% of all boardings but contributed only 29% of the fare revenue. MTA memo, May 26, 1994.

pass riders.¹¹⁵ Student (K-12) passes would be kept and priced at \$24 but would be valid only during school hours Monday through Friday (though they would be valid for express routes without surcharges). In addition, blind riders would no longer be eligible for free rides.¹¹⁶

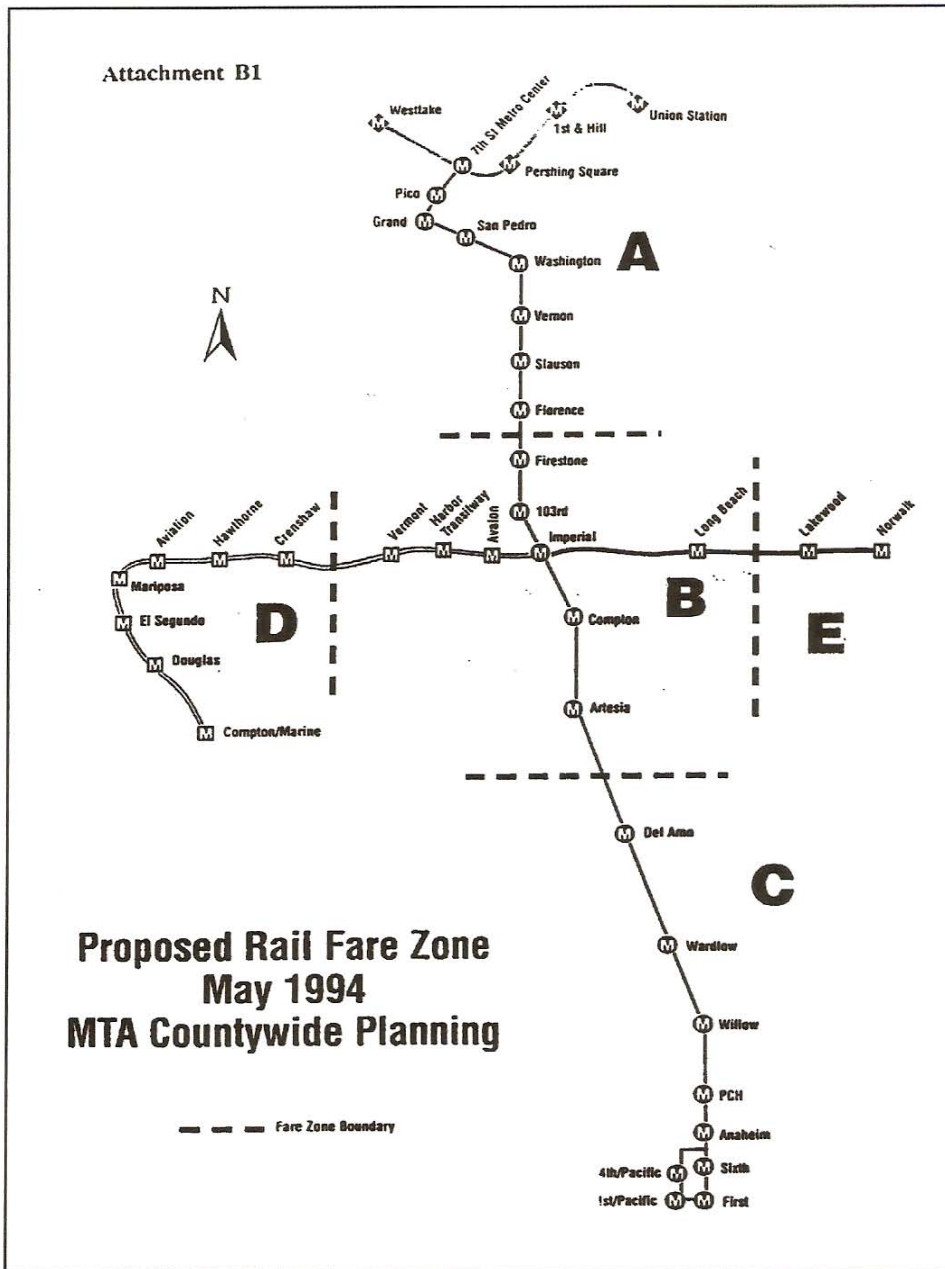
In addition to restructuring bus fares, the staff proposed that the Board adopt zone based fares for urban rail thus embracing the concept of premium fares for premium service. There would be three fixed zones on the Blue Line and Green Line (see Figure 7.10). The zone charge would be \$0.50. The fare on the Red Line would stay \$0.25 though, until the second segment opened.¹¹⁷ Staff estimated that ridership on the Blue Line would fall by 21.2 percent or 2,500,000 riders per year though revenues would increase 56.7 percent from \$6.0 million to \$9.4 million. A ride from end to end would cost \$2.35, which would still be less than the price for the express buses that the Blue Line had replaced.

¹¹⁵Monthly pass prices had been calculated assuming 38 uses per month but the average use was 100 times per month. Since pass users made 43 percent of boardings but only contributed 29 percent to fare revenues, as a result cash fares were artificially high to cover the cross subsidy given to pass users. To the extent that some poor bus riders were unable to afford a monthly pass or chose to use cash or tokens they cross-subsidized pass users.

¹¹⁶Although the FRC had considered selling weekly or bi-weekly passes, they were not included in the proposal. A biweekly pass pilot program, that was only in operation a few months, had failed to generate sufficient sales to justify the administrative costs, but it was not clear how well the program was publicized.

¹¹⁷The mechanics of enforcing the zone pricing were somewhat difficult since the MTA has chosen to adopt a barrier-free rail system without toll collectors.

Figure 7.10. Zone Fare Proposal



Source: MTA Metro Rail Fares Memo, May 1994.

Even before the proposed fare restructuring, the MTA fares were already higher than other Los Angeles County municipal bus operators. In comparison, the average base fare of the non-MTA bus operators was 50 cents. For those who relied on the \$42 monthly pass, eliminating them would mean, according to one estimate, an average 63 percent increase in transit cost to \$68.50 assuming their riding patterns did not change.¹¹⁸ A typical family with a household income under \$15,000 and two members who purchased and used monthly bus passes, could their see transit costs increase by over \$500 per year, or over 4 percent of their household take home pay.¹¹⁹

The MTA staff estimated that the fare increase would generate \$51.4 million annually but would decrease bus ridership by 6.9 percent or by 1.14 million daily boardings. It would, however, increase the MTA's annual fare revenue per passenger by 35 percent. The net result would be to lower the subsidy that MTA bus passengers received below preexisting levels, further widening the disparity in subsidy levels between MTA bus riders and the riders of Metrolink, the Blue and Red Lines, and other non-MTA bus operators.

The MTA defended the fare proposal on the grounds that base fares had not been raised since 1988 and the MTA lagged behind other cities in the ratio of farebox revenues

¹¹⁸As an alternative the MTA could price the pass at \$67. On average, a pass user received \$67 in value for \$42 (assuming one fare and one transfer: $(\$1.10 + \$0.25)/2 = \$1.35/2 = \$0.67 \times 100 \text{ rides} = \67).

¹¹⁹MTA memo, Impacts of Proposed Fare Structure, June 17, 1994.

to costs.¹²⁰ Adjusted for inflation over the previous six years, the base fare was only 83 cents. If base fares had kept pace with inflation the price would have been \$1.37. Thus, the proposed \$1.35 base fare would be comparable to the fare in 1989, if the cost of living were taken into account. With these proposed changes, average fares would increase from \$0.53 to \$0.72. Those most affected would be adult pass riders, who made up approximately 25 percent of all passengers carried. Fares would increase the most for riders who used transit the most, had the lowest incomes and received the least external subsidies.¹²¹

In sum, the fare proposal was designed to address a number of concerns with the existing fare structure, including:

1. Reduce deep discounts given to many pass user groups
2. Address inequity between cash and pass payment
3. Pricing should reflect services consumed
4. Charge premium fares for premium service
5. Simplify the fare system
6. Retain discounts for all riders.

¹²⁰The average fare per boarding on the MTA in FY 1992-93 was less than one half of the \$1.10 base fare. In New York City, the average revenue per fare boarding was 80% of the \$1.25 fare. Washington D.C. recovered 103 percent of the base fare per boarding mainly due to distance surcharges. Closer to home, the Santa Monica bus company was receiving 72 percent of its 50 cent base fare (the company offered no unlimited passes and had no deep discounts).

¹²¹MTA memo, Impacts of Proposed Fare Restructuring , July 17, 1994.

The staff calculated that there would be no significant change in the racial or ethnic makeup or income profile of the bus ridership as a result of the proposed changes.¹²²

Staff warned the Board though, that any delay in implementing the plan would cost the agency \$4.2 million per month in foregone revenues.

The Board approved the fare restructuring plan effective September 1, 1994, but to ameliorate the impact for low income riders the Board agreed to an amendment by Board member and County Supervisor Gloria Molina to expand the discount token program and continue to offer tokens at 90 cents, and also to retain the student and college/vocational ed passes. Supervisor Molina opined that: The proposed fare increase alone, would have a devastating effect on the majority of bus riders.¹²³

While unlimited ride bus passes provide greater benefits to frequent riders, it was clear that many regular low-income riders could not afford the \$42 monthly pass, and many other poor riders did not ride frequently enough to make purchasing the pass worthwhile. The tokens, priced at 2/3 the regular fare, provided an immediate benefit and

¹²²MTA memo, Proposed Changes to the Fare Structure for Implementation of September 1, 1994, May 26, 1994, Attachment G.

¹²³MTA Board Minutes, September 1, 1994. To ensure the success of the new token program, the staff was ordered to develop an extended token distribution program and marketing plan with community input and to report back to the Board with respect to expanding the availability of tokens, and the development of an expanded marketing plan. Staff was also directed to survey the token sales program at various sales points throughout the county to determine its effectiveness and to establish a transit check program to replace the general pass in order to ensure the continuation of employer transportation subsidy options for employees.

could be purchased in smaller numbers for less money.¹²⁴ Under the Molina plan, it was assumed that 1/3 of all riders would use tokens. Transfers would still cost 25 cents. The cost of the college/vocational education passes would go to \$30 from \$25, the price of the school pass would increase to \$20 from \$18, but would be good for travel on weekends. Senior/disabled pass price would rise to \$12 from \$10, and the MTA would adopt zone surcharges on the Blue Line priced at 50 cents per zone.

The Board also voted to cancel two local lines with high subsidies per passenger mile (#208 and #152), scale back service on four other lightly patronized lines (#94, #104, #225, and #320), and reduce peak hour express service on three more lines (#443, #445 and #457) that would have been eliminated entirely under the budget as originally proposed. The expanded token sales marketing program, the lower token prices, the expanded student passes, and the restored bus service would cost the MTA an additional \$9.3 million.¹²⁵ Supervisor Molina asked that these funds not come out of bus operations.¹²⁶ The revised budget supported completion of the first segment of the Red Line, tunneling and station construction for Segment Two, and engineering and construction work on Segment Three. It also funded completing construction and startup

¹²⁴The cost for 42 trips a month would be \$38.50 using the 90 cent tokens.

¹²⁵A total of \$9.6 million would be due to changes in the fare policy proposed by staff (\$8.4 million in reduced revenue from keeping token prices at \$0.90 and \$1.2 million for increased administrative costs from the token program) and \$0.2 million from restored services.

¹²⁶The \$9.8 million shortfall was eventually eliminated through various other budget adjustments, including a \$3.9 million net savings from a work stoppage and \$5.9 million savings from renegotiated labor contracts.

on the Green Line and work on two bridge segments for the Pasadena Blue Line. A motion by Supervisor Antonovich to approve the entire \$123 million work program for the Pasadena Blue Line was temporarily tabled. It was not lost on opponents that the cost of the Pasadena Line nearly matched the projected \$126 million operating deficit to be remedied by the fare increase.¹²⁷ As described in some greater detail in the next chapter, stopping the Pasadena Line became a rallying point for those opposed to the fare proposals.

The MTA forecast that it would lose 80,000 mostly poor bus customers due to the fare restructuring or 6 percent of its ridership base, but that the proposed fare increase would generate an additional \$31.2 million in revenue the rest of the year. Bus service would be reduced by 375,000 revenue hours or about 5 percent to account for reduced ridership from the fare increase (the MTA terms this rider deflection), cancelled lines and declining ridership. The MTA Board members pointed out that the fare increase was justified as there had already been layoffs, job reductions, a hiring freeze, and cuts in funding for the Blue Line rail extension to Pasadena.

¹²⁷Mann (1976).

No Justice, No Peace

Critics including the L/CSC charged that the additional revenues generated by the proposed fare increase amounted to a mere a drop in the bucket compared with the MTA s annual \$3 billion dollar budget,¹²⁸ and further that the agency had failed to consider other cost reductions, including halting or delaying some rail construction projects. The MTA planned to spend approximately \$9 billion on its rail program, these critics noted, and had already spent hundreds of millions of dollars on Metrolink. At the same time, the agency had reduced its peak hour fleet buses from 2,200 to 1,750, despite steady demand for bus service. The Board, however, believed its actions would produce greater parity between patrons who could afford monthly passes and those riders who pay cash or use tokens.

On July 20, 1994 an op-ed piece by Eric Mann of the BRU appeared in the *Los Angeles Times* denouncing the MTA Board s apparent intention to approve the additional \$123 million in funding for the Pasadena Blue Line only one week after voting in favor of the fare increase. Mann and fellow members of the BRU were physically removed from that evening s Board hearing by MTA police at the insistence of Chairman and County Supervision Ed Edelman when they protested the Board s actions, preventing them from testifying in favor of an alternative proposal for a 50 cent cash fare and a \$20 pass and in

¹²⁸The charge is a bit misleading since the MTA is the regional transportation planning and programming agency for all modes.

support of drivers and clerks on strike and against proposals to contract out MTA jobs.

At the MTA's subsequent Board meeting in August 1994, numerous people including the L/CSC protested against the recent fare increase and the discontinuance of the monthly pass. The L/CSC and the BRU formally requested that, in light of the proposals to raise fares and cut service, the MTA should adopt a moratorium on all rail projects, which the L/CSC maintained would serve a more heavily non-minority ridership. The groups favored no fare increase, a return of monthly passes and eventual lowering of bus fare and pass prices.

As expected, County Supervisor and MTA Board member Mike Antonovich moved to partially fund the Pasadena Blue Line project by authorizing spending \$60.8 million for the Pasadena Line of which \$32.8 million would be drawn from unexpended funds from HOV projects completed under budget.¹²⁹ White objected that the \$32.8 million had been set aside for future projects and that it was premature to withdraw them since some of these projects could well go over budget.

White also warned the Board that they were proceeding too far with rail projects without assurances of having enough money to complete them. Moving money out of the HOV projects would also change the environmental nature of the 30-Year Plan as HOV

¹²⁹The remaining \$28 million consisted of \$18 million in unallocated TOS funds, and \$10 million in deobligated capital funds through the FY 93-94 Call for Projects Recertification.

projects potentially provided more congestion relief than rail. He pleaded with the Board not to spend money we don't have. The Board, however, on a 8-4 vote approved reallocating the \$32.8 million and also agreed to the additional \$28 million funding for the Pasadena Line by a 10-2 vote.¹³⁰ As adopted with all revisions, the FY 1994-95 budget included \$634.3 million for rail construction including funding for the Pasadena Line and completion of the Green Line.

The destructive nature of the political infighting among the Board did not end there. Supervisor Antonovich urged Congress to pull the plug on the Red Line so that funds could be spent on other light rail projects.¹³¹ Mayor Riordan took steps to reduce the Board of Supervisor's influence on the MTA. He proposed legislation that would restructure the MTA Board to a nine member appointed body without elected officials or their alternates.¹³² The Supervisors, the League of California Cities, and the Mayor would each appoint three representatives. Antonovich shot back, claiming that current composition of the Board favored parochial transit investments that benefit special interests (read Los Angeles), and not the county-wide needs of the taxpayers who require a comprehensive transit system. Rather, the Board should reflect the interests of the county's dispersed population and employment centers its 88 cities and vast

¹³⁰Mann (1976).

¹³¹Letter from Supervisor Michael Antonovich to House Speaker Newt Gingrich, June 28, 1995.

¹³²AB 273, sponsored by Rep. Steven T. Kuykendall (R-Long Beach).

unincorporated areas. He backed an 11 member board consisting of all five county Supervisors and four from the county's other 87 cities, but only two representative from the City of Los Angeles. He declared:

A board of elected officials with this composition would represent a county-wide approach to transit, resulting in an *equity based* approach to our transit investment for the future.¹³³

Nothing, however, came of either proposal, and as noted below, county regionalists on the Board have continued to push rail expansion and resist improvements to the bus system, while the centrist representatives from the City of Los Angeles, particularly under Riordan's successors, have tended to favor greater bus spending.

Conclusion

To meet its looming fiscal crisis, the new MTA Board initially undertook a series of stop-gap financial steps designed to maintain bus service while keeping its rail program on track. When money began to run short, however, the agency moved toward

¹³³Letter from Supervisor Michael Antonovich to Governor Pete Wilson, August 17, 1995 (emphasis added). Quite obviously, Antonovich's notion of equity differed significantly from that of the L/CSC and the Bus Riders Union.

reducing bus service and raising fares in order to balance its budget and permit continued funding for its costly rail proposals. Even as elements of the rail program came on line and the number of rail passengers increased total transit ridership continued to fall. Whatever opportunities may have existed in the wake of the civil disturbance of 1991 to fashion a public transit program that would have addressed needs of inner city residents soon evaporated in light of the political imperatives of the MTA's regional rail program. The Board, however, refused to take the politically tough decision to slow rail development, instead promising even more. Their view of transit *equity* had more to do with sharing the spoils of the agency's \$3 billion budget among their constituents than in meeting the needs of transit dependents.

To keep the floundering rail program afloat, the Board pushed through a controversial bus fare increase, discussed below. The Board's decision served to crystallize issues being raised over the cost and quality of public transit service in Los Angeles. The perception of many of the agency's critics was that poor and minority bus riders would bear the brunt of the MTA's fare strategy and that it would aggravate already-existing disparities in service. The ensuing legal conflict would highlight the unwillingness or inability of the locally-elected officials on the MTA board to address the deepening fiscal crisis, in particular, their reluctance to unravel geo-political agreements on the phasing of expensive and politically visible rail projects that even public admonitions by the MTA's CEO could not convince the Board to postpone or abandon.

The result was a regional rail capital versus local bus operations fiscal train wreck.

Throughout its budget process the Board deliberately kept debates over its fare and rail policies separate, despite the L/CSC's attempts to link the two issues. While CEO White was urging the Board not to spend money they didn't have, rail supporters such as County Supervisor Mike Antonovich defended the vote, claiming that Pasadena Line spending was not coming at the expense of bus service and that the money had been designated for rail use by the voters in approving Propositions A & C. On August 30, 1994 the BRU staged a rally on the steps of City Hall to protest the pass cuts and fare increase. Mayor Riordan refused to meet with them. With the battle lines now drawn, the next steps were up to the courts.

PART III: THE STRUGGLE FOR TRANSIT JUSTICE IN LOS ANGELES

CHAPTER EIGHT: BUSES VERSUS RAIL

The MTA lawsuit came at a time when the agency was already facing severe fiscal pressures. Construction problems, cost overruns, and a steady stream of bad press over the development of the rail program and the declining quality of local bus service helped to undermine popular and political support for the MTA. The bureaucratic infighting that had persisted even after the merger had delayed and now seriously threatened the completion of the planned Prop A rail transit system, at least beyond those sections already under construction. The California Transportation Commission (CTC) had held up promised funds for the Pasadena Line pending proof the agency would have the resources to be able to complete construction. For the MTA, the first step to convince funders and the public that it could regain control of its financial affairs and deserved continued support for its ambitious rail construction program was to reexamine how the MTA was spending its funds, and what projects it could realistically expect to pursue giving its shrinking resources. Not a particularly easy task, given that the MTA had exercised little fiscal discipline up to that point and had difficulty even accounting for its spending. In the discussion that follows, it is possible to give only a rough overview of

the agency's fiscal conundrum, in part because the financial picture was constantly shifting but also because the available documentation is frequently incomplete and internally inconsistent. What is clear is that although it publically sought to separate the fiscal issues surrounding its rail and bus programs, they would inevitably be linked. Though the MTA maintained throughout the litigation that bus fares were not being raised to pay for rail construction, it did come to see the MTA lawsuit and demands for bus improvements as a serious threat to rail funding.

The Bus Riders Union Lawsuit

Following the MTA Board vote on the fare increase and approval of the new budget, a coalition of groups opposed to those decisions agreed to fight the MTA's actions in court. Joining the Labor/Community Strategy Center and its membership organization, the Bus Riders Union, were the Korean Immigrant Workers Advocates, the Southern Christian Leadership Conference of Greater Los Angeles County, and several individual minority plaintiffs who alleged they would be adversely affected by the fare changes. The individuals and organizations involved in this lawsuit came together in a unique, though tenuous coalition to argue that the proposed bus fare increase and other bus and rail policies of the MTA were both inefficient and inequitable. Beyond this, however, the participants in the lawsuit operated from very different philosophical bases

and pursued conflicting long-term agendas.

The Parties

The Labor/Community Strategy Center (L/CSC) operates from a radical political stance. The L/CSC describes itself as an anti-capitalist left organization¹ committed to building new multiracial social movements of the urban poor and working class, with an unwavering antiracist orientation.² Long before the lawsuit was filed in August 1994, the L/CSC had been active in Los Angeles transportation issues. It formed a Transportation Policy Group in 1991 and began organizing a campaign against the RTD's plans to raise bus fares and cut bus service to cover its budget shortfall. For several years, L/CSC representatives attended public hearings, met with transportation and political officials, and even introduced motions from the floor at MTA board meetings.³

Frustrated with a planning process that its members believed allowed for only limited, reactive community participation, the L/CSC sought a means by which to effectively challenge the MTA from outside the formal administrative process. The

¹Mann (1997).

²Mann and Mathis (1997), p.2.

³Mann (1996).

MTA's decision to restructure its fare system provided that opportunity, as the L/CSC turned to the courts as a venue for organizing in the political arena.⁴ The lawsuit brought media interest and attention to the L/CSC that it could use to generate support for its campaign against the MTA.

The Bus Riders Union (BRU) is a project of the Labor/Community Strategy Center. It is an advocacy and membership organization whose members consist largely of regular users of public transit. While the L/CSC and the BRU are separate entities, the latter clearly and intentionally serves as a vehicle for the former's political agenda. The BRU's radical, multi-racial campaign focuses on demanding equal rights to quality transportation without regard to race, color, disability, gender or income.⁵

Although the BRU asserted itself as the lead plaintiff in the case, the two other advocacy organizations also participated and lent their support to the coalition. The Southern Christian Leadership Conference of Greater Los Angeles (SCLC) is a civil rights organization with a long history of advocating for equal provision of transportation services. The parent organization was very active in fighting discrimination in public transportation in the South, organizing bus boycotts and other protest actions to desegregate buses in the 1960s. They were joined by the Korean Immigrant Workers

⁴Mann (1997).

⁵Mann and Mathis (1997).

Advocates (KIWA), a non-profit, community service organization that provides assistance and services to Korean immigrant workers and advocates for equitable treatment of poor minority and other inner city mass transit users.

Forging a broad coalition was symbolically important to legitimizing the campaign against the MTA. Given the 1992 civil disturbances and recent history of inter-ethnic conflict in Los Angeles between African Americans and Asians, the collaboration of these two particular organizations was seen as a significant political statement by the Plaintiffs.

The Attorneys

The lead lawyers representing the Plaintiffs were from the Western Regional Office of the NAACP Legal Defense and Education Fund, Inc. (LDF). The Plaintiffs were also represented by the ACLU Foundation of Southern California, and attorneys from the Environmental Defense Fund.⁶

Established in 1940 under the direction of Thurgood Marshall, the LDF is a public

⁶They were also represented initially by lawyers from the Legal Aid Foundation of Los Angeles. Legal Aid attorneys were forced to withdraw from the lawsuit, though, after Congress enacted legislation restricting the sorts of cases they could undertake.

interest law firm specializing in civil rights law. One of its earliest and best-known victories came in the 1954 Supreme Court ruling in *Brown v. Board of Education*, which ended state segregation in public schools and initiated the dismantling of all forms of government-sanctioned racial discrimination. The Legal Defense Fund also has an interest in advocating for social change outside the courtroom and in strengthening coalitions with other concerned organizations. In looking to expand its advocacy efforts to encompass wider issues of social justice and regional democracy, the LDF had begun to forge coalitions with other disenfranchised groups. As an example, the LDF sued the State of California to require mitigation measures for a freeway project that cut through a lower-middle class Latino neighborhood.⁷ The LDF described this as part of its continuing effort to foster coalitions of civil rights and environmental organizations. The LDF had also become involved in community organizing through its role in the Multi-Cultural Collaborative, a multi-ethnic coalition of community-based service and advocacy groups formed in the wake of the 1992 civil disturbances in Los Angeles to find collaborative solutions to inter-ethnic conflict, bias, and violence.⁸

LDF lawyers had also initiated a number of meetings with MTA and city officials over the MTA's proposals for increasing bus fares. After the MTA Board voted to adopt the proposed fare restructuring plan they continued to press the Board in an effort to avert

⁷Mothers of East Los Angeles, et al., vs. California Transportation Commission, et al., Before the U.S. Department of Transportation and U.S. Department of Housing and Urban Development.

⁸LDF, About the Western Regional Office, accessed at www.ldfla.org, September 26, 1998.

its implementation. When that effort prove unsuccessful, the LDF agreed to represent the L/CSC, the Bus Riders Union, and the other groups suing the MTA.

The LDF's central role within the Plaintiff coalition was in mediating between the various members and their often divergent political and theoretical positions. The LDF lawyers served to successfully keep the coalition together and focus the Plaintiffs on the immediate issue at hand -- proving the MTA discriminated against minority bus riders in violation of their civil rights. Still, disagreements arose between the BRU and the LDF, with each side claiming to speak for the members of the class. At one point, discussed below, those conflicts even threatened to derail a settlement of the action.

The Complaint

The case was filed in federal court against the MTA and its then executive director Franklin White as a civil rights class action law suit on behalf approximately 350,000 poor, minority and other transit riders of MTA buses alleged to be adversely affected by the MTA s policies. The immediate goal was to prevent the fare increase and pass elimination. The MTA and White were represented by the private law firm of Riordan & McKinzie, the former law firm of then Los Angeles mayor and MTA Board member Richard Riordan.

The suit against the MTA alleged that the fare and service policies unlawfully discriminated against the class of poor minority bus riders in violation of federal civil rights law. The Plaintiffs' complaint sought to enjoin the Board's actions on the grounds that the MTA had violated the 14th Amendment to the Constitution and provisions of Title VI of the Civil Rights Act of 1964⁹ by intentionally discriminating against racial and ethnic minority groups in the delivery of transportation services.¹⁰ The Plaintiffs also charged the MTA with using federal funds to operate a discriminatory transit system in violation of Department of Transportation (DOT) regulations prohibiting racial discrimination.¹¹

⁹Section 601 of Title VI of the Civil Rights Act provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. § 2000d.

¹⁰The Supreme Court has ruled that claims of unlawful discrimination brought directly under equal protection clause of the Fourteenth Amendment or Section 601 of Title VI of the Civil Rights Act require proof that the defendant intended to discriminate against a protected minority group on the basis of race or ethnicity. *Washington v. Davis*, 426 U.S. 229, 238-48, 48 L.Ed.2d 597, 606-12, 96 S.Ct. 2040, 2046-51 (1976); *Regents of the University of California v. Bakke*, 438 U.S. 265, 98 S.Ct. 2733, 57 L.Ed.2d 750 (1978). The Court described four factors for courts to consider in addressing allegedly purposeful racial discrimination in *Arlington Heights v. Metropolitan Housing Corp.*:

(1) the impact of the official action, whether it bears more heavily on one race than another, may provide an important starting point; (2) the historical background of the decision, particularly if a series of official actions was taken for invidious purposes; (3) departures from the normal sequence; and (4) substantive departures, particularly if the factors usually considered important by the decision maker strongly favor a decision contrary to the one reached.

429 U.S. 252, 266, 266-7, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977).

¹¹The DOT regulations implement Title VI and state:

No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be

(continued...)

Plaintiffs alleged that the fare hikes and pass elimination were part of a historical pattern of discrimination against minorities by the MTA. According to the Plaintiffs, since 1972, the MTA and its predecessor agencies had (1) refused to provide service to minority communities, (2) refused to connect minority communities to other areas, (3) provided inferior bus service to poor and minority areas, (4) colluded with others to prevent minorities from having fair and equal access to public transportation, (5) arbitrarily imposed transfer requirements and line changes in minority communities, and (6) made racially motivated changes in rail rapid transit plans.

In addition to challenging the agency's proposed fare restructuring, the plaintiffs claimed that the MTA's expenditures for subway and light rail construction to the neglect of its own central city bus operations had a disparate impact on inner city bus riders. The end result, argued the LDF attorneys, was the creation of separate and unequal transit systems in which minority bus riders were denied subsidies, service, and security equal to those provided to the riders on the other modes of transportation operated and/or funded by the MTA.

¹¹(...continued)
otherwise subjected to discrimination under, any program to which this part applies. 49 C.F.R. Part 21.

In contrast to claims of discrimination brought directly under Section 601 of Title VI of the 1964 Civil Rights Act, at the time it was possible to assert claims alleging racially or ethnically disparate effects covered by regulations promulgated under Section 602 of the Act without proof of intent. *Guardians Association v. Civil Service Commission*, 463 U.S. 582, 610-11, 612, 641-42 (1983). See now, *Alexander v. Sandoval*, 532 U.S. 275; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001).

Plaintiffs claimed that despite its stated goal of providing efficient and equitable transportation, the MTA's overspending on rail projects in general, including the Red, Blue and Green Lines, and Metrolink commuter rail service, disproportionately benefitted white riders in suburban regions while failing to develop comparable programs for predominantly minority riders. As the plaintiffs summarized their contention:

The bus ridership is overwhelmingly minority and poor and has no access to alternative means of transportation, while the rail ridership is overwhelmingly white, financially well off, and has alternative means of transportation. The overwhelming majority of the MTA's resources are devoted to the rail system. The trains are clean well-lit places with adequate security. The overcrowded buses are dirty and dangerous.¹²

Plaintiffs also accused the MTA of ignoring expert opinions that basing regional transportation programs primarily on rail was neither feasible nor cost effective.

The significance of filing the case as a *class* action is central to understanding the relationship between the LDF and the other members of plaintiff coalition. Class actions always have one or more individuals as plaintiffs to act as representatives for the other members of the class. One of the individual plaintiffs in this case was described in the

¹²Plaintiff's Memorandum of Points and Authorities in Support of Plaintiffs' Ex Parte Application for a Temporary Restraining Order and Application for Preliminary Injunction, August 31, 1994, p. 31

complaint as a:

[S]ixty-year-old Latina resident of Los Angeles County whose sole source of income is Social Security. She owns no car and relies upon MTA bus transportation as her sole means of transportation. She currently buys a monthly bus pass for \$42. If the bus pass is eliminated and the MTA raises bus fares, she will have to cut back or eliminate her trips to meetings and social events, and visits to friends and relatives. Friends and relatives who use the MTA bus also will be unable to visit her.¹³

In class action suits, the named plaintiffs, including membership organizations like the BRU, have a fiduciary responsibility to all the members of the class. They may not settle or compromise the action to suit their own interests but are expected to act for the best interest of the class as a whole. As attorneys for the class, the LDF intended and was expected to make strategy decisions for all bus riders, not just members of the BRU or the other plaintiffs. This gave them a substantial amount of control over the course of the lawsuit and in structuring the settlement that was eventually reached. The BRU's organizational assistance here was crucial nonetheless. In addition to recruiting the named individual plaintiffs, the BRU solicited and obtained declarations from dozens of MTA bus riders documenting the hardship they would face should the fare increase and

¹³Plaintiff's Complaint for Declaratory and Injunctive Relief, August 31, 1994.

pass elimination be implemented. Those statements helped convince the district court that the Plaintiffs would suffer substantial harm warranting a temporary injunction against the proposed fare restructuring plan.

In their court papers, the Plaintiffs charged that the MTA and its predecessor agencies had since 1965 pursued policies having an adverse disparate impact on poor and minority riders. They insisted that raising fares and eliminating the \$42 monthly pass would more than double the monthly transportation costs for current pass users. Bus riders, they argued, faced the risk of losing their jobs, or losing affordable housing if they had to move closer to their jobs to avoid higher bus costs. The Plaintiffs also claimed that the MTA could easily allocate some of its discretionary funds to improve the bus system but that raising fares would defeat or substantially impair the ability of the MTA to provide efficient and equitable transportation services without regard to race, color or national origin, as required by law. The MTA, naturally, vigorously defended its motives in pursuing its rail projects and in adopting higher fares and eliminating passes. The agency contended that there was no evidence that it deliberately discriminated against any group.

The case was assigned to Judge Terry Hatter who, following an initial hearing, issued a temporary restraining order (TRO) preventing the fare increase. The order kept fares at \$1.10, rather than the proposed \$1.35, and temporarily prevented the MTA from

halting sales of its monthly passes.¹⁴ At that hearing, Constance Rice, lead attorney for the Plaintiffs laid out the case against the MTA:

They spend 70.1 percent of their total resources on projects designed to benefit what is currently a ridership of six percent. They have consistently defunded the bus system, that predominantly poor patrons ride. What we re asking for is eventually for them to come back to their senses and sit down and plan transportation in a way that has some notion of equity in it.¹⁵

In reply, the MTA s counsel defended the fare increase, saying that the members of the plaintiff class did not have to pay the full \$1.35 cash fare, since they could buy a token for 90 cents. Echoing the internal debate in the MTA over fare equity, he argued that those buying monthly passes were not paying their share.

Ms. Rice responded that the average cost of the tokens would be \$87.10 to cover the average rider s work plus outside trips - double the \$42 cost of the monthly pass. Assuming that one-third of riders would use tokens the average cost per trip would be

¹⁴Temporary Restraining Order, September 1, 1994. The defendants asked the court to stay its order pending the outcome of their own petition for writ of mandamus in the Ninth Circuit Court of Appeal. The trial court denied their request. The Court of Appeal subsequently denied the mandamus petition.

¹⁵Court Transcript, September 1, 1994, #12, p. 11

\$1.15. She remarked that even the MTA itself estimated that the average cost per month would be \$62.70, a \$20.70 increase. Ms. Rice also rebutted the equity argument for eliminating passes noting that even the MTA agreed the very poor are subsidizing the less poor but still very poor since pass users come from the same general demographics as bus users generally.¹⁶

Preliminary Injunction

Following issuance of the TRO, a subsequent hearing was held on the Plaintiffs motion for a preliminary injunction to stop the fare increase until a full trial could take place. In support of their injunction motion, the Plaintiffs alleged that the MTA and its predecessors had historically operated a separate and unequal system of public transportation in Los Angeles County,¹⁷ and that MTA policies resulted in grossly inferior subsidies, services and resources for predominantly minority ridership in Los Angeles County compared to predominantly white communities. They claimed that although 94 percent of the MTA patrons were bus riders, the MTA was spending over 70 percent of

¹⁶Court Transcript, September 1, 1994, p.23

¹⁷The phrase separate and unequal is of course derived from the Supreme Court's *Brown v. Board of Education* decision discussed in Chapter Two, holding that the Fourteenth Amendment bars *de jure* segregation in public education. While there was no contention that the MTA barred individual minorities from using any of its transit service, the gist of the lawsuit was that whites and minorities, as groups, received *unequal* levels of service. For a fuller discussion of the legal bases for this charge, see Chapter Nine.

its total resources on commuter rail projects to transport riders from white and relatively wealthy communities to job sites downtown and elsewhere. Plaintiffs also complained that to pay for the rail projects the MTA had reduced its bus fleet from 2200 to 1750 despite continuing demand for transit, particularly in the inner city.

The Plaintiffs maintained that because the MTA serves a large number of low income riders without access to autos, the impact of the fare increase would fall disproportionately on members of ethnic and racial minorities which make up a greater percentage of low income persons than in the population at large. While racial and ethnic minorities accounted for 55.2 percent of the county population in 1990, 82.4 percent of the county residents living in poverty were Asian, African American or Latino. In 1989, poverty rates for Latinos and African Americans were three times higher than for whites, while those for Asians were twice that of whites. Because income and poverty are highly correlated with race and ethnicity in Los Angeles County, the proposed fare increase would affect non-white residents far more than white residents. Indeed, the MTA's own data showed that four out of five MTA riders were non-Anglo and that the majority of these were low income persons.¹⁸

The MTA denied all these allegations and insisted that its actions were not discriminatory since the vast majority of its patrons were minority and therefore *any*

¹⁸MTA, Fare Restructuring Committee memo, Comparing the Demographic Composition of MTA Riders with the Population of Los Angeles County, January 20, 1994, page 4.

actions the Board might take regarding fares would necessarily affect protected racial and ethnic groups since MTA ridership was by and large minority. The MTA vigorously defended its motives in pursuing its rail projects and in adopting higher fares and eliminating passes, contended that there was no evidence that it deliberately discriminated against any group, and that it had legitimate justifications for its decisions. Moreover, the MTA maintained that its operations were not in fact discriminatory since most of its buses and rail lines served (or at least passed through) predominately minority areas. The agency attorneys further argued that the fare increase was justified since fares had not gone up in six years and, in what would become a continuing theme throughout the litigation, charged that the Plaintiffs' unprecedented lawsuit would completely disrupt the fiscal integrity of a local governmental agency, and place the management of a regional mass transit system in the hands of the federal judiciary which would be an abridgment of [its] sovereignty. In support of this, the MTA also pointed out that state law (California Public Utility Code section 3000a) made the MTA responsible for providing a comprehensive mass rapid transit system for Southern California, and that the need for an efficient transit system was therefore a matter of statewide concern.¹⁹

To obtain a preliminary injunction, the Plaintiffs had to show, in addition to their likelihood of proving their case at trial, that on balance the hardship they would suffer from the MTA action was greater than the agency would face from temporarily delaying

¹⁹Defendants' Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Preliminary Injunction, September 7, 1994.

the fare changes. Plaintiffs, pointed out that the MTA had on its own shifted its discretionary funds, which could be used to improve bus service, into subway and light rail construction that served a disproportionate number of white riders. They also insisted that raising fares and eliminating the \$42 monthly pass would more than double the monthly transportation costs for current pass users. Bus riders faced the risk of losing their jobs, or losing affordable housing if they had to move closer to their jobs to avoid higher transportation costs. Some of those bus patrons would also have to forego trips for medical, education, shopping, recreational, cultural and other essential services that would remain accessible to the rest of the county s residents.²⁰

In further support of their position, the Plaintiffs argued that the proposed fare increases would hit the poor especially hard and posed a significant and unnecessary financial hardship to hundreds of thousands of daily low-income riders of the MTA system. At least 60 percent of MTA bus riders had annual household incomes of \$15,000 or less at the time of the lawsuit, compared to only about 21 percent of county residents, and many of the half million county residents who have annual incomes of \$10,000 or less were transit dependent. The transit dependant poor were particularly vulnerable to fare increases because the high cost of owning and maintaining automobiles left them little choice but to pay higher bus fares. In this regard, MTA data showed that over half of all bus passengers resided in households with no vehicles available, compared to just

²⁰Plaintiffs Memorandum of Points and Authorities in Support of Plaintiff Ex Parte Application for Temporary Restraining Order and Application for Preliminary Injunction, August 31, 1994.

11 percent countywide.²¹

For its part, the MTA maintained that it would suffer a \$40 million revenue loss if the fare restructuring was enjoined. The authority insisted that the fare restructuring came only after it had weighed other options, implemented cost reduction measures, and pursued every way to eliminate its huge operating deficit. Moreover, the MTA again asserted that the bus riders represented by the Plaintiffs would not suffer since the cash fare would actually be reduced from \$1.10 to \$0.90 for those who purchased tokens. While admitting that monthly pass users would experience a cost increase, the MTA argued that they were the people most able to afford it (again, a point strongly contested by the Plaintiffs):

[The new fare system] balances the cost of transit service among MTA's patrons in contrast to the current system in which cash fare patrons essentially subsidize the more affluent monthly pass users. An injunction blocking the fare increase will require service cuts. The operating deficit will be worsened and the taxpayers will bear the costs.²²

²¹Plaintiffs' Memorandum of Points and Authorities in Support of Plaintiff's Ex Parte Application for Temporary Restraining Order and Application for Preliminary Injunction, August 31, 1994.

²²Defendants' Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Preliminary Injunction, September 7, 1994.

Finally, the MTA challenged the federal court's authority to interfere in its fare decisions, claiming that Title VI did not create a private right of action to socially re-engineer the distribution of government resources but that primary jurisdiction for overseeing the authority's business practice lay with the FTA, the agency responsible for the distribution of federal transportation monies.²³

The Plaintiffs responded that any financial hardships the agency might experience were the result of the MTA's own decisions on spending priorities between existing bus service and new rail construction. They asserted that over the last decade the MTA had devoted billions of dollars for rail projects to serve disproportionately non-minority riders without any similar efforts to improve service for minority bus riders. Discretionary funds which could have been used to cover operating deficits of bus services were instead allocated to new rail projects. Had these rail expenditures been postponed, or had some of the rail projects been foregone, Plaintiffs argued, it would have been possible to utilize some of the discretionary funds available to the MTA to cover operating deficits facing the bus system, and thus avoid a discriminatory fare increase. Finally, Plaintiffs maintained that the MTA Board's decision to allocate funds to rail and commuter bus programs that had little or no rider, fiscal, environmental or other economic benefits was inconsistent with both its stated policy that improving bus service

²³Defendants' Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Preliminary Injunction, September 7, 1994. The U.S. Supreme Court essentially adopted this position later in *Alexander v. Sandoval*, 532 U.S. 275; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001).

was the MTA s highest priority and with federal and state requirements that new rail construction not diminish preexisting bus service or jeopardize affordable bus service.²⁴

Following a formal hearing on September 21, 1994, the district court considered the evidence on discrimination and hardship presented by both parties and granted the Plaintiffs a preliminary injunction which prohibited the MTA from raising cash bus fares from \$1.10 to \$1.35 and eliminating the monthly unlimited use bus passes pending a full trial. The court concluded that the Plaintiffs had raised serious legal questions and that the balance of hardship tipped in Plaintiffs favor. The court found that the proposed fare restructuring would cause minority bus riders substantial losses of income and mobility that, for a significant number, will result in the loss of employment and housing, and the inability to reach medical care, food sources, educational opportunities, and other basic needs of life. ²⁵ The court concluded that the MTA routinely tolerated passenger loads as high as 1.45 times the seating capacity on its buses. By contrast, there were typically no standees on Metrolink, or MTA rail lines. The issue of bus crowding and what to do about it would become a continuing area of disagreement between the two sides. In addition to running overcrowded buses, the court noted that the MTA spent far more on security for rail riders than bus riders the security expenditure per passenger boarding was only three cents for the bus system but was \$1.29 for the Blue Line.

²⁴Plaintiffs Memorandum of Points and Authorities in Support of Plaintiff Ex Parte Application for Temporary Restraining Order and Application for Preliminary Injunction, August 31, 1994.

²⁵Findings of Fact and Conclusions of Law re: Preliminary Injunction, September 21, 1994, at 1-2.

Looking at the spatial impact of the fare increase, the court found that service delivery problems have more serious impacts in the inner city than in most other areas of the county because inner city residents are extremely dependent on public transit and suffer from significantly more limited access to transportation alternatives.²⁶ The court concluded that the Plaintiffs had met their initial burden of showing that they could prevail at trial and that any harm to the defendants from delaying the fare changes until at least then was outweighed by the harm the changes would do to current transit riders.²⁷ Following the court's decision, the MTA asked the trial court to vacate or modify the preliminary injunction, or at least stay the order pending a decision on the appeal they filed with the Ninth Circuit Court of Appeal.²⁸ On October 18, 1994, Judge Hatter denied the MTA's request for a stay pending appeal on the grounds that the filing of the appeal had divested him of jurisdiction to stay the injunction. However, at a subsequent hearing he indicated that he would consider modifying the injunction were the appeal to be dismissed. On November 4, 1994, the MTA moved to voluntarily dismiss its appeal and the Court of Appeal granted the motion on November 22, 1994.²⁹ The parties then agreed that pending trial the MTA would be permitted to raise base fares to \$1.35 while retaining

²⁶Findings of Fact and Conclusions of Law re: Preliminary Injunction, September 21, 1994, at 2.

²⁷Findings of Fact and Conclusions of Law re: Preliminary Injunction, September 21, 1994.

²⁸The MTA also requested an emergency stay of the district court's order from the Court of Appeal. On October 17, 1994, the Court of Appeal ordered the MTA's motion for a stay to be held in abeyance pending the district court's decision on the request to vacate.

²⁹Plaintiffs filed a motion for immediate reconsideration of the clerk's order and to strike portions of defendants' voluntary dismissal motion and for costs. Their motion was denied December 6, 1994.

the monthly pass, which would be sold for \$49, provided that the agency would also continue to offer 90¢ discount tokens.³⁰

The temporary arrangement neither solved the agency's fiscal dilemmas nor protected transit users from further fare increases or service cuts. The Plaintiffs still had to convince the court that the MTA's policies were unjustified in order to secure any permanent relief. Regardless of the resolution of the fare dispute, MTA management began to publically acknowledge that the agency's financial problems were far more systemic. As the two sides prepared to battle in court over whether or not the MTA's policies were discriminatory, the conflict increasingly came to be defined, rightly or wrongly, as a choice between rubber-tired buses and steel-wheeled railcars.

While both sides prepared for trial, the MTA began to reconsider its rail construction program, and to take further steps to remedy its fiscal conundrum. The agency's efforts would, however, quickly become fodder for the Plaintiffs' continuing legal and public efforts to portray the MTA as rail-obsessed and insensitive to the needs of transit dependents.

³⁰The MTA was facing a \$57 million operating revenue shortfall in January 1995 due to lower fare revenues and loss of ridership, and reduced sales tax revenue forecasts. The modified fare increase resulted in an additional projected loss of \$15 million. To cover these shortfalls the MTA used cost savings, service cuts, and interest on unexpended Prop A & C funds and Rideshare funds. MTA, Finance, Budget and Efficiency Committee memo, FY 94-94 Budget - Revenue Shortfall Mitigation Plan, December 6, 1994; MTA, Finance, Budget and Efficiency Committee memo, FY 94-94 Budget - Additional Revenue Shortfall Mitigation Plan, April 28, 1995.

MTA 1995 Long Range Plan

Despite severe shortfalls in rail capital funding, the 1994-95 Budget had committed the MTA to moving forward on all proposed major rail capital improvements in the \$183 million 30-Year Plan originally developed by the LACTC (see Chapter Seven). These included completion of all segments of the Red Line, the Green Line, and continued construction of the Pasadena Line as well as the LA Car project. The Plan was due for a scheduled revision, which gave the MTA an opportunity to revisit its rail program, and a chance to craft a long term solution to the agency's structural budget problems. That became something of a lost opportunity, though, as the MTA Board again failed to face up squarely to the deteriorating financial situation.

Critics of the 30-Year Plan had long charged that it was out of touch with the realities of transportation in Southern California. Two prominent conservative academics, who later agreed to help the BRU in its lawsuit, had published a *Counterplan for Transportation in Southern California* in which they argued that the transportation system should be consistent with the low density, decentralized urban pattern that residents preferred.³¹ The report accused the MTA of diverting large sums of public funds to build expensive rail projects while ignoring the needs of bus riders, noting the steep decline in bus patronage from 497 million boardings in 1985 to 403 million in 1992

³¹Gordon & Richardson (1994).

after the District raised fares to support its rail program. Calling for an end to further rail construction, they insisted that higher vehicle occupancy rates and less congestion could be achieved through an expanded network of transitways, deregulating van and taxi services, and introducing peak-hour pricing on freeways through High Occupancy Toll (HOT) lanes. The authors argued that the 30-Year Plan was based on doomsday scenarios that did not take account of rapid suburbanization of businesses and housing as a response to increased congestion. They pointed out that average traffic speeds in Los Angeles were already above the national average, and that the average length of worktrips and travel time had not significantly decreased. Increased suburb-to-suburb commuting, they argued, would mean even less demand for conventional fixed route transit.³²

The MTA's response to the *Counterplan* defended the benefits of rail investment in reducing congestion and stimulating development in the central city. The MTA argued that public transportation should serve a wide range of travel need while maintaining an equitable distribution of costs across modes.³³ Rail had an important role to play, the agency insisted, particularly in heavily congested corridors, and over time would support compact development thus reducing the need for additional highway construction.

Adding buses in mixed traffic would be impractical in high demand areas, the MTA

³²The study pointed to mounting research that rail transit tends to cost more and attract fewer riders than projected. For example, see Pickrell (1989). For an analysis of the BART system, see Webber (1976).

³³Los Angeles County MTA, *For the Record: A Practical Approach to Providing Mobility For All Los Angeles County*, May 1994.

urged, since operating speeds would be too slow to be effective; the higher rail speeds would be needed to attract and keep riders. The MTA defended its concentration on commute trips since these would represent the best opportunity to encourage transit use, even though they only constituted 40 percent of total transit ridership and a shrinking proportion of urban trips. Finally, the MTA pointed to the passage of Propositions A and C, as well as several state rail bonds, as proof of voter commitment to rail transit.

The MTA also criticized the *Counterplan* for focusing on passenger *trips* as the basis to compare costs and subsidies for transit. In order to judge how different combinations of modes serve different market segments over the long term, the MTA's report argued that transit planners should use passenger *miles* as the appropriate measure to compare services. Longer trips on rail and express bus routes have higher costs, the MTA acknowledged, but also produce greater benefits in terms of congestion and pollution relief. Since commuter rail and bus services serve different market segments, the response concluded that comparing per trip subsidies was not appropriate.³⁴ On a per passenger mile basis, it asserted, the operating subsidies of bus and rail were much closer.

The MTA concluded with the following in defense of its rail program:

³⁴The MTA's choice expressed in this response to favor the smaller, largely white, commuter segment over the much larger, predominately minority, bus rider segment, was of course, the central issue in the BRU lawsuit.

Finally, critiques of rail patronage and cost projections miss the basic objectives of rail projects to develop significant ridership over several years, providing a cleaner travel mode which alleviates demand on other arterials, and supporting infill development around station areas to encourage pedestrian and non-automobile trips.³⁵

The MTA asserted that its multi-modal approach to transit was necessary to meet the area s transportation needs, pointing to studies showing that per capita auto travel in cities with rail transit was, on average, 30 percent lower than for cities without rail transit, as evidence that the quality of the urban environment tends to improve when rail investment is coordinated with land use policies. ³⁶ The MTA took the position that public transportation should afford opportunities for compact transit-oriented urban development rather than subsidizing sprawl. Despite its defense of rail investment, the emphasis on multi-modal solutions in the MTA report already presaged a shift in attitude within the agency from rail at any cost to a recognition that some hard choices would have to be made in light of a growing financial crisis.

Early in his tenure as the MTA s CEO, Franklin White too had recognized that the 30-Year Plan was far too ambitious, even given the MTA s substantial available

³⁵Los Angeles County Metropolitan Transportation Authority, *For the Record: A Practical Approach to Providing Mobility For All Los Angeles County*, May 1994 (hereinafter *MTA, For the Record*), p. 3.

³⁶MTA, *For the Record*, p. 4.

resources. The plan, which every two years had to undergo a formal review, originally had been devised to appeal to a broad range of political constituencies represented on the Board. With the MTA facing a \$126 million structural operating deficit, White and his staff used the opportunity to produce a major overhaul of the 30-Year Plan. The new Long Range Transportation Plan (LRP) document, formally titled *A Plan for Los Angeles County: Transportation for the 21st Century*, only covered a 20 year period and cost a mere \$72.4 billion³⁷ (see Table 8.1). Up to \$100 billion of the projected \$183 billion cost of the 30-Year Plan was to have been spent over the first 20 years. Unfortunately, the loss of anticipated local, state and federal revenues over that same period now equaled more than \$30 billion, forcing the reduction in planned investments.³⁸

³⁷Equivalent to \$89.8 billion in 2004 dollars.

³⁸MTA, *Transportation for the 21st Century*, March 1995 (hereinafter *1995 LRP*), p. 16.

Table 8.1. 1995 MTA Long Range Plan Financial Summary (\$ Millions)

	Local	State	Federal	Total Revenues	
	Revenues	Revenues	Revenues		
Transit Capital					
Bus	1,233.2	22.6	2,451.8	3,707.6	5.1%
Rail	7,266.8	1,807.6	6,316.5	15,390.9	21.2%
Subtotal	8,500.0	1,830.2	8,768.3	19,098.5	26.3%
Transit Operations					
Bus	20,773.7	262.6	816.9	21,853.2	30.2%
Rail	5,120.8	229.0	26.2	5,376.0	7.4%
Subtotal	25,894.5	491.6	9,458.1	27,229.2	37.6%
Highway	5,083.2	4,621.2	2,695.9	12,400.3	17.1%
Local Return	5,398.1	0.0	0.0	5,398.1	7.4%
Other					
Reserve Fund	720.5	0.0	0.0	720.5	1.0%
Administrative	983.6	0.0	0.0	983.6	1.4%
Overhead					
Financing Payments	6,527.8	0.0	118.5	6,646.3	9.2%
Subtotal	8,231.9	0.0	118.5	8,350.4	11.5%
Total	53,107.7	6,943.0	12,425.8	72,476.5	100.0%
	<i>73.3%</i>	<i>9.6%</i>	<i>17.1%</i>	<i>100%</i>	

Source: MTA 1995 Long Range Transportation Plan, Exhibits 4-4 & 4-6

The 1995 LRP was designed as a strategic planning document to improve mobility within the constraints of projected financial capacity. The 20-year time frame was selected in part to satisfy the fiscal capacity requirement of ISTEA and to demonstrate the MTA's financial capability to outside funding agencies.³⁹ The adopted Plan was presented as providing a cost-effective mix of projects, based on both quantitative and qualitative analyses, to produce an overall improvement in mobility and air quality, in line with limited available resources. Local revenues would provide 73 percent of the funds, state revenues another 10 percent, with the federal government supplying the 17 percent balance. As shown in Table 8.1, Transit Capital (bus and rail projects) would consume 26 percent of the projected available funds, Transit Operations 38 percent, and Highway Programs another 17 percent. The remainder would be divided between the Local Return (7%) and other expenses (11%), the majority of these being debt service, nearly all of which would be covered by Prop A and Prop C tax revenues.

The stated goal of the LRP was to improve mobility by increasing vehicle capacity and improving travel speed. Relieving traffic congestion and improving air quality again being cited as major reasons for providing alternatives to automobile travel. Key

³⁹The MTA, as the state-designated planning and programming agency for Los Angeles County is responsible for preparing a long range transportation plan which then becomes a part of the federally-required Regional Transportation Plan (RTP) prepared by the Southern California Association of Governments (SCAG), the designated Metropolitan Planning Organization (MPO) for the six county Southern California region. The SCAG plan is known as the Regional Mobility Element (RME). ISTEA regulations required the RTP to be affordable and tied to reasonably available funding over a 20 year period. P.L. 102-240, Title III, §3012, December 18, 1991, 105 Stat. 2098, amending Section 8 of the Federal Transit Act of 1964, originally codified at 49 U.S.C. App. 1607(g), recodified as 49 U.S.C. §5303(f) by P.L. 103-272, § 1(d), July 5, 1994, 108 Stat. 788.

elements of the revised plan would be expanding the bus fleet, reallocating buses to high demand corridors, building rail only in densely populated urban cores and creating a High Occupancy Vehicle (HOV) highway system. Promising to undertake new, or expand existing, programs only as existing or new revenues permit, it also called for the MTA staff to develop a cost containment plan.⁴⁰

The LRP was intended to be a balanced transportation plan in terms of bus and rail investment, matched to anticipated revenues. Note that, as shown in Table 8.1, rail capital expenditures were still four times as high as bus capital, though bus operating costs were also more than four times those of rail. Overall, bus and rail expenditures were roughly equal.

The Plan addressed a SCAG-projected population increase of over 33 percent, or nearly 3 million by 2015, with most of that occurring in the North County (Palmdale, Santa Clarita, and Lancaster) but also significant growth expected in the west San Fernando Valley, San Gabriel Valley and other areas immediately west and east of downtown.⁴¹ Similar increases in employment were also forecast with densities expected to remain highest in downtown and west Los Angeles, but gradually expanding south and west to Long Beach, the Mid-East and Beach cities, north to Burbank-North Hollywood

⁴⁰1995 LRP, p. 12.

⁴¹The SCAG forecasts were widely believed to be inflated. For example, the UCLA Anderson forecast used a 19% growth rate.

and the West Valley, and east toward San Gabriel. In short, travel demand was expected to be highest in the central, western, northern and eastern travel corridors.

The impact of population and job growth on transportation was expected to be substantial as the number of daily person trips was projected to increase from 29 million to more than 38 million over the twenty year Plan period. This translated to a potential 1.5 million increase in single-occupant vehicle (SOV) trips. Without changes to the transportation system, the resulting congestion was anticipated to slow peak period freeway travel speeds from 41 mph to just 17 mph, and less than 10 mph in rapidly growing, outlying areas of the county. Increased congestion was also forecast on arterial streets, which would also impact transit speeds and in turn reduce transit mode share and increase operating costs.

In one significant shift of policy, the draft Plan recommended that funding be allocated to solving congestion and mobility problems in the most effective way, rather than attempting to equalize spending in all geographic areas, though it did present both as potential options given additional funding (see Appendix A). Still, the doomsday scenarios painted in the 1995 LRP, clearly were intended to bolster the case for transit investment in spite of the evident fiscal constraints. Interestingly, the LRP singled out the need for bus improvements in order to realize maximum rail patronage, buses being the

primary means of access to the rail system.⁴² Also significant, the Plan acknowledged that new facilities alone would not solve mobility problems, but that other policy measures designed to change travel behavior, such as congestion pricing, parking policies, and other demand management strategies would be needed. Even so, the Plan reiterated that rail would have to be constructed in a limited number of the high-capacity travel corridors, such as the western corridor between downtown and the 405 freeway, where adding buses would not in itself reduce congestion. In line with earlier planning, mixed use developments were encouraged around transit centers, hoping to reduce vehicle trips by as much as 20 percent.⁴³

While much of the focus continued to be on improving efficiency in transportation investments, to increase transit use vis-a-vis automobiles, the Plan did address what it termed modal and social equity in providing affordable transit service:

A large percentage of MTA riders are transit-dependent, relying on public transportation to reach their jobs, run errands, and visit friends and family. Affordable transportation alternatives must be provided for these residents, as well as for all transit users to maintain and increase transit ridership.⁴⁴

⁴²1995 LRP, p. 34.

⁴³1995 LRP, p. 82.

⁴⁴1995 LRP, p. 13.

The 1995 Long Range Plan reflected the evident tension between serving the needs of transit dependent riders and trying to attract solo drivers out of their cars. The major policy approach of the Plan was described as follows:

The Plan starts with the premise that the bus network will continue to serve as the backbone of the transit system, and includes strategies which build more transit capacity into strategic links in the transportation system while also ensuring that the current system is used to its fullest potential. The bus system will be expanded and transit preference corridors will be created so that those traveling in buses or vans will have a faster, more convenient travel alternative. Flexible, community-based transit services will supplement the heavy-demand lines in the urban core, and provide improved mobility to the less-populated outlying areas, with funding provided through the creation of a Mobility Allowance program. *Rail will only be built in the highest-demand corridors where more cost-effective alternatives are not feasible.*⁴⁵

⁴⁵1995 LRP, p. 37 (emphasis added). The Mobility Allowance program was created to provide more flexible, on-demand transit services to certain areas and was to be funded by monies saved from cancelling what the MTA considered some lightly used bus lines.

Rail Projects

In developing the Plan, staff approached the matter as in the 30-Year Plan, first establishing a Baseline consisting of only those rail projects currently under construction or having firm funding commitments, and only providing replacement buses for those retired from service. The minimal set of projects consisted of the following (see Figure 8.1):

Red Line MOS-1, -2, and -3

Pasadena Line (to Sierra Madre Villa)

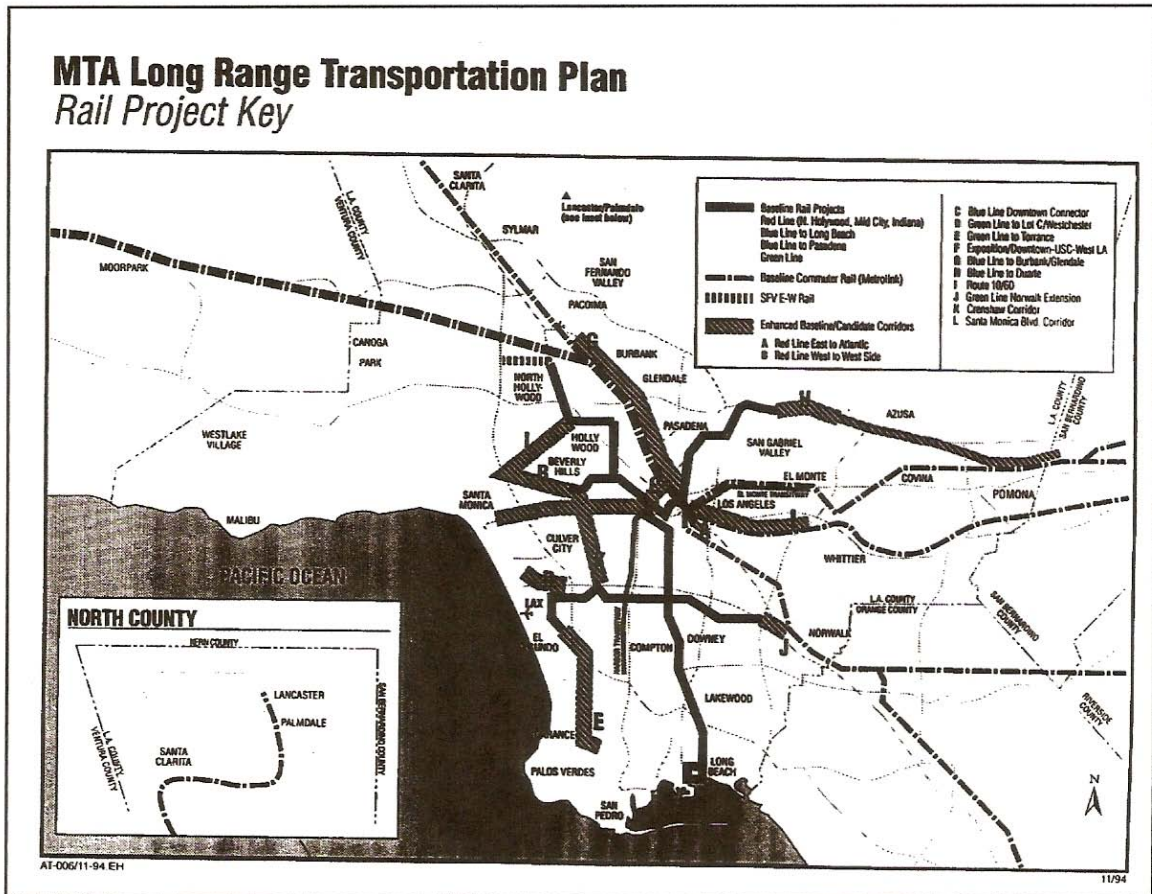
Green Line (Aviation to Airport Lot C)

Metrolink

LA Car

Unlike the prior 30-Year Plan, though, it did not automatically endorse rail in all the 14 transit Candidate Corridors in the Prop A system. Rather, it subjected each project to quantitative analysis to justify its inclusion.

Figure 8.1. Long Range Transportation Plan Projects



Source: MTA Long Range Transportation Plan (Draft), 1994.

For this revision, the criteria that had been used to evaluate Candidate Corridors in the 30-Year Plan were collapsed into three categories of Multimodal Performance

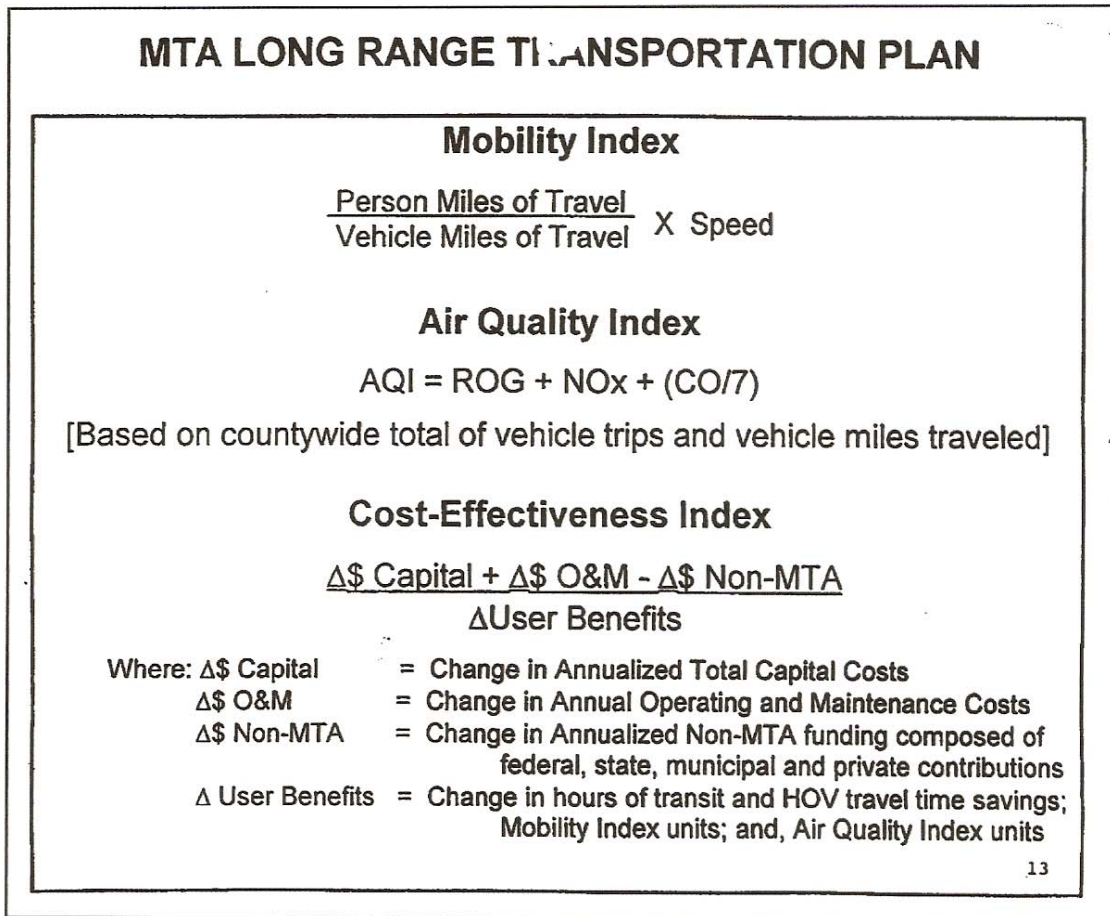
Criteria: Mobility, Air Quality, and Cost-Effectiveness (see Figure 8.2).⁴⁶ Note, the Cost-Effectiveness measure excludes non-MTA expenses such as those paid from state and federal funds, typically treated as free money by transit planners. Since rail construction often receives a high proportion of federal and state funds compared to bus capital spending (or operations), the formula tends to favor rail by understating either the true public costs or, more broadly, the true social costs of rail compared to buses and the BRU was quick to point out this flaw. The final adopted Plan did, however, include information on state and federal contributions to the projects.

⁴⁶Also considered were mode split, and effect on transit, highway, and freeway speeds. In addition, each project would be evaluated by the 15 Metropolitan Planning Factors required by ISTEA in all short and long-range transportation plans:

1. Preservation/efficient use of existing facilities
2. Consistency of transportation planning with Federal, State and Local energy conservation programs, goals and objectives
3. Relieve/prevent congestion from occurring
4. Likely effects of transportation decision on land use/development and consistency with short- and long-range land use/development plans
5. Programming of expenditures on transportation enhancement activities as required in section 133
6. Effects of all transportation projects within metropolitan area without regard to publically funded projects
7. International border crossings and access to major transportation/public facilities
8. Need for connectivity of roads within the metropolitan area with roads outside metropolitan areas
9. Transportation need identified - management system required by section 303
10. Preservation of rights-of-way for construction of future transportation projects
11. Methods to enhance freight movement
12. Use of life-cycle costs in the design of transportation infrastructure
13. Overall social economic
14. Methods to expand/enhance transit service
15. Capital investments increasing security in transit systems.

P.L. 102-240, Title III, §3012, December 18, 1991, amending Section 8 of the Federal Transit Act of 1964, originally codified at 49 U.S.C. App. 1607(f), recodified as former 49 U.S.C. §5303(b) by P.L. 103-272, §1(d), July 5, 1994, 108 Stat. 788105-178, Title III.

Figure 8.2. MTA Multimodal Performance Criteria



Source: MTA 1995 Long Range Transportation Plan, Technical Appendices, Exhibit A-3.

The proposed analysis represented a significant departure from that which produced the recommendations contained in the 30-Year Plan, though it was still driven principally by congestion and air quality concerns. Far more quantitative than the largely

qualitative assessments in the 30-Year Plan, the overall philosophy was also different. In contrast to the something for everyone approach, the draft LRP adopted what CEO White described as a building block approach, solving key transportation problems with less expensive solutions and only considering heavier capital investments when necessary. Evaluation of the Baseline projects suggested, however, that all performed poorly in terms of traffic congestion and air pollution reduction and convinced staff that some surface street bus routes needed to be augmented by subways. The Baseline projects also did not fare very well in terms of the number of transit trips they would generate (technically termed mode split). Building only the Baseline, staff concluded, would result in a growing proportion of drive alone trips relative to carpool and transit trips. For example, the Baseline scenario only produced a transit work trip mode share of 7.3 percent by 2015, down from 8.2 percent measured in 1990, and less than called for by the regional air quality planning documents.⁴⁷

The staff decided that the first priority was to create an improved baseline before inaugurating any new large scale projects. Therefore, selected additional rail projects not yet under construction, or without full funding, and an accelerated bus vehicle replacement program, were added to produce an Enhanced Baseline (see Figure 8.3). While the MTA staff determined that the existing Metro Red Line was serving appropriate corridors, and that some of the planned rail lines would serve high density,

⁴⁷1995 LRP, p. 91.

high transit use corridors (including the Santa Monica Boulevard corridor, and *portions* of the Crenshaw and Exposition corridors), they nonetheless concluded that other planned rail lines could not be cost justified. Based on the performance evaluations, staff proposed that both of the Red Line Extensions (also called the Orange Line at that time) should be included in the Plan, scoring high in terms of both transit boardings and new transit riders.⁴⁸ The rail projects added to form the Enhanced Baseline included the following:

Red Line

San Fernando Valley East/West Extension (to I-405)

Western Extension (Mid-City to I-405)

Eastern Extension (Indiana to Whittier/Atlantic)

Blue Line Downtown Connector

Green Line LAX extension (Aviation to Lot C)

Expanded Metrolink system

⁴⁸MTA 1995 LRP, Exhs. A-16 and A-17.

enhancements.⁵⁰ Indeed, the Fare Restructuring Plan was seen as the key to the entire rail development program as the Long Range Plan depended on resolving the structural gap between future operating costs and revenues — failure to do so would significantly diminish the MTA's capacity to fund the proposed capital and operating programs.⁵¹

On the brighter side, given expected sales tax revenues based on a new UCLA business school forecast,⁵² staff concluded that the MTA could fund the Baseline projects and programs within the 20-year period, though some project schedules would need to be adjusted, and that there would be \$7.5 to \$16 billion available to fund additional projects and programs in the Enhanced Baseline.⁵³

⁵⁰The staff acknowledged that the draft LRP was a financially-constrained plan, and depended significantly on the Board's Special Work Program (see Chapter Eight) to solve operating and capital shortfalls. That program was designed to review the agency's service delivery, operations, labor strategies, fare structure and recommend new sources of revenues.

⁵¹The 1995 LRP also presumed that MTA bus operations would be funded by other than Prop C 40% Discretionary Funds. Moreover, it assumed that the Red Line bonding cap would be lifted and the City of Los Angeles would contribute to completing the Red Line MOS-2 and MOS-3 projects. Finally, it also assumed that additional bonds could be issued against Prop A 35% and Prop C 40% revenues to keep the rail capital program on schedule. These multiple assumptions cast some doubt on the financial viability of the proposals.

⁵²Revenue projections for the LRP were based on the UCLA Long Term Forecast for Los Angeles County, September 1993, prepared by the UCLA Business Forecasting Project, while ridership projections were based on the higher population forecasts contained in the SCAG long range forecast, since by law, the LACTC was required to use population estimates provided by the local metropolitan planning organization, in this case SCAG. Critics, such as the L/CSC, derided this approach as skewing the case for costly rail projects at the expense of the bus program by making future traffic congestion appear worse, while making future revenues appear smaller, thus justifying shifting bus monies to pay for rail construction.

⁵³The sources of the additional funds were:

Local Prop C 10%, 25% and 40%	\$1.9 - \$7.2 billion
State	\$3.0 - \$3.7 billion
Federal*	<u>\$2.6 - \$5.1 billion</u>

(continued...)

A draft of the LRP was presented to the MTA Board on August 24, 1994, which approved the plan but not without first insisting on reinstating some of their own pet projects. While the Board agreed that Baseline projects should include only those which were fully funded or under construction, it also voted to reaffirm its longstanding commitment to complete the Pasadena Blue Line, although funding was uncertain, and to fund and construct the San Fernando Valley (SFV) East / West Transit Rail project. The Board also mandated that the SFV project would be the next rail project to be built although the staff felt the first priority should be extending the Red Line west to Century City and east to Whittier/Atlantic. In essence, the Board voted to include both the Pasadena Blue Line and Valley projects against staff recommendations and without further analysis. The decision had the effect of automatically putting the Red Line Eastern and Western Extensions (those outside of MOS-3), which would serve predominately African American and Latino areas, behind projects that served mostly white areas. As the result of the Board vote, the East-West Valley Rail project would simply be included as part of the system without being subjected to separate evaluation on any performance measures.⁵⁴ The full list of rail projects making up the nearly 300-mile proposed system and their associated costs are listed below in Table 8.2.

⁵³(...continued)

Total

\$7.5 - \$16.0 billion

*CMAQ, STP, Trans. Enhancement Funds, and FTA Sec. 3 New Starts.

⁵⁴The Board did however, vote to seek funding for the Red Line Eastern and Western extensions under the ISTEA reauthorization bill.

Table 8.2. 1995 MTA Long Range Plan Adopted Rail Projects Capital and Operating Costs (\$ Millions)

Capital Projects	Miles	Capital Costs	Operating Costs
Urban Rail			
Red Line			\$2,144
Segment 1 (completed)*	4.4	\$1,418	
Segment 2*	6.8	1,446	
Segment 3*		[2,782]	
North Hollywood extension	5.9	1,311	
Mid-City extension (to Pico/San Vicente)	4.0	492	
Eastern extension (to Indiana Avenue)	2.3	980	
East/West Valley Line Phase I (to I-405 Fwy)	6.0	1,082	
Western Extension (to I-405 Fwy)	7.8	3,111	
Eastern Extension (to Whittier/Atlantic)	3.0	1,242	
Red Line station improvements		101	
Blue Line			1,824
Long Beach Blue Line (completed)*	21.3	[877]	
Pasadena Blue Line (to Sierra Madre Villa)*	13.5	998	
Green Line (Norwalk to El Segundo)*	19.5	722	742
LA Car*		258	
Commuter Rail			
Metrolink	201.0	180	666
Other**		2,052	
Total	295.5	\$15,391	\$5,376

*Baseline projects

**Misc. rail/rehabilitation, environmental clearances

Source: MTA 1995 Long Range Plan, Exhs. 3-7, 4-5, p. 133.

Besides committing the agency to complete the Green Line, MOS-2 and MOS-3 of the Red Line, and construct the East-West Valley Rail Line, the Pasadena Line and the Red Line Eastern and Western Extensions (Orange Line), the draft LRP also identified several of the remaining Candidate Corridors that performed well on the evaluation criteria and in which anywhere from 3 to 6 additional lines could also be constructed, provided up to \$4.3 billion in additional funding should become available in the second decade of the Plan:

Exposition/Downtown - USC

Glendale/Burbank

San Gabriel Valley LRT (10/60 corridor)

Crenshaw Corridor

San Fernando Valley East-West (405 Fwy to Warner Center)

Downtown Connector.

Specific modes were not determined for these corridors, but less costly options than rail would be considered for them. Those projects that scored poorly and that the plan recommended should be postponed included the following:

Exposition/West LA

Pasadena Line Extension (to Duarte)

North Coast (to Westchester)

Green Line Norwalk Extension

South Coast (to Torrence)

Santa Monica Boulevard

In summary, from the 22 projects in the original 30-year plan, the new 20-year provided that construction would be delayed on 10 lines, 2 would be shortened, 12 eliminated (though 5 of those could be reconsidered in the second ten years) and one new line potentially added in the Crenshaw Corridor.⁵⁵

Bus Improvements

In addition to the proposed rail capital projects, the Plan also proposed an Improved Transit Initiative (Scenario 1)⁵⁶ that called for adding 300 new buses⁵⁷ (for a

⁵⁵Declaration of Thomas A. Rubin, January 21, 1997.

⁵⁶Three bus improvement scenarios were considered to measure the benefits of different combinations of rail, bus, highway and HOV projects. Scenario 1 consisted of adding 300 new buses, together with the East-West Valley Line, and Red Line Extensions to Westwood and to Atlantic Boulevard. Scenario 2 added 627 buses to the Baseline along with construction of the East-West Valley Rail Line, but omitted any extensions to the Red Line. Scenario 3 added 500 buses, the East-West Valley Rail Line, and the Red Line Western Extension to Westwood, but not the Eastern Extension to Atlantic. Scenario 1, which was adopted, generated the highest transit work-trip mode share (9.2%), highest carpool mode share (13.5%), and the lowest drive alone mode share (77.3%) for commuter travel in the county. As more buses were added, transit share declined in the MTA travel simulation model. The MTA attributed this to the ability of rail transit, to move passengers at twice the speed of buses, particularly in the Wilshire Corridor. MTA critic Tom Rubin ridiculed the analysis that appeared to suggest that 48 work trips would be *lost* from transit to
(continued...)

peak fleet of 2,871), at a cost of \$760.4 million,⁵⁸ to serve the most transit dependent areas. The MTA also proposed reducing or cutting service on some lightly patronized lines in order to reallocate another 140 buses to high demand areas as the rail lines were opened, and developing 130 miles of bus priority and preference lanes, which would also reduce the overall number of peak buses that would be needed. A bus/rail interface plan to eliminate duplication of service and reinforce rail access connectivity was to be prepared, and a major restructuring of the bus system undertaken, to reduce off-peak fixed-route bus service and replace it with more cost-effective alternatives, such as shared-ride taxis, smart shuttles, and jitneys, designed to increase transit options and mode share. To compensate for the service reductions the Plan proposed using some of the cost savings to fund Mobility Allowances, monies that could pay for flexible community transit options operated by municipal and private providers. MTA staff believed this program would improve the mobility of transit dependents by customizing service in different areas to better serve local needs. The L/CSC charged that the MTA was simply cutting back on necessary regular bus service that many transit dependents relied on and substituting untested alternatives.

⁵⁶(...continued)

non-transit modes for every new bus added. He called for an independent expert review of the entire plan. Thomas Rubin, A Presentation to the Los Angeles County Metropolitan Transportation Authority Board of Directors Regarding Concerns about the Long Range Plan, no date.

⁵⁷A total of 125 new buses would be added to reduce present overcrowding and the remaining 175 buses would be used to expand transit service and lower passenger to seat ratios during peak travel periods.

⁵⁸Equivalent to \$942.9 million in 2004 dollars.

While there was some attempt to deal with the bus service issue through the abovementioned Mobility Allowances, on the whole the LRP was obviously being driven by a desire to claim air quality and congestion relief benefits from shifting automobile commuters to high speed rail. The LRP was replete with graphs and charts showing improved freeway and arterial speeds and levels of service with the proposed improvements compared to the Baseline (though not to existing conditions). It projected a rather modest increase in transit mode share from 7.3 percent to 9.2 percent by 2015. It also predicted significant travel time savings and further reductions in mobile source pollutant emissions. On the other hand, there was little or no analysis of the impact on bus riders, beyond promises of better service.

Analysis of the Plan

In postponing some rail projects and abandoning the 30-Year Plan's completely unrealistic revenue forecasts, the LRP clearly represented a positive step forward. Critics nonetheless still viewed the Plan as pushing rail development at the expense of buses. One consequence of the shift to rail was that presumably fewer buses would be needed. The Plan proposed that money freed up from buying fewer buses could be used to buy *bigger* buses. While larger buses are better for peak period service due to their greater capacity, their use generally means longer headways, and therefore fewer buses, longer

waits, and less convenient service. Former RTD Chief Financial Officer, Thomas Rubin, who became a valuable expert witness for the Plaintiffs lawsuit, maintained that the Plan's continuing emphasis on rail development would especially hurt low-income transit dependent riders, many of whom use MTA services during non-peak periods and for non-work trips, when larger buses are less effective. Noting that Los Angeles buses were already heavily patronized, he argued that there was not enough bus service to meet even the existing demand. Despite an expected 35 percent increase in population generally over the planning horizon (1990-2015), and an even larger increase in the largely transit-dependent minority population of nearly 75 percent, the MTA actually forecast a decline of 6 percent in total transit trips over the 20-year planning period. Moreover, despite having the lowest peak-to-base ratio of any major transit operator in the U.S. (that is, comparatively little fall off in ridership during non-peak periods), the MTA appeared to be reducing non-peak service.⁵⁹

Rubin's own analysis, based on MTA data, projected a one-third increase in transit work trips but an equal decline in non-work trips. Even the transit improvement proposal recommended by staff (Scenario 1) would only result in a 10 percent increase in the number of buses, and would actually result in a reduction of one-half of the off-peak

⁵⁹The MTA peak-to-base ratio was approximately 1.45 compared to an average of just under 2.0 for major transit operators in the U.S.

service.⁶⁰ The MTA responded to the criticism by asserting that the LRP called for adding 300-500 buses and that the intent of the Plan was to focus resources on the most transit-dependent corridors, noting that cuts in funding for off-peak policy service (lightly used bus service with 60 minute or longer headways) were intended to save money (to go into the Mobility Allowances) that could be spent on more flexible demand responsive service in those areas, such as jitneys and community shuttles. However, the Rubin criticized the concept arguing that bus service should be *increased* rather than cut back since most routes were heavily utilized even in the off-peak.⁶¹

Though the Mobility Allowances were intended to provide better substitute service on lightly patronized lines, Rubin criticized this approach as not cost-effective in many cases.⁶² Moreover, shifting bus service, he argued, would not significantly reduce overcrowding on extremely high demand routes. In the adopted Plan, only the 9.2 percent increase in transit mode share for work trips was mentioned, not the projected decline in

⁶⁰Thomas Rubin, Notes on MTA Long Range Transportation Plan: Performance of Individual Projects and Programs, November 18, 1994. Work trips increased 32.1% from 419,610 in the 1990 Baseline to 554,384 in the 2015 Improved Scenario (a share increase from 40.4% to 59.6%), however, non-work trips declined 31.8% from 619,673 to 422, 162 (a share decrease from 56.8% to 43.2%).

⁶¹Rubin, Thomas A., A Presentation to the Los Angeles County Metropolitan Transportation Authority Board of Directors Regarding Concerns About the Long Range Plan, no date.

⁶²Thomas Rubin, Memo to MTA Board, Concerns About the Los Angeles County Metropolitan Transportation Authority Long Range Plan: Recommendations, Process, and Errors and Omissions, February 1995.

non-work trips.⁶³ Nor was any mention made of the projected 6 percent decline in overall transit use.

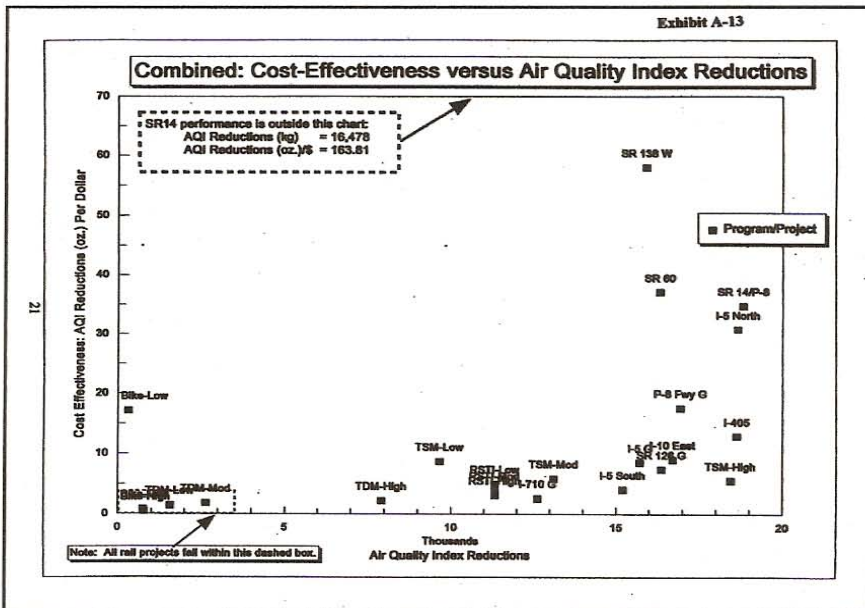
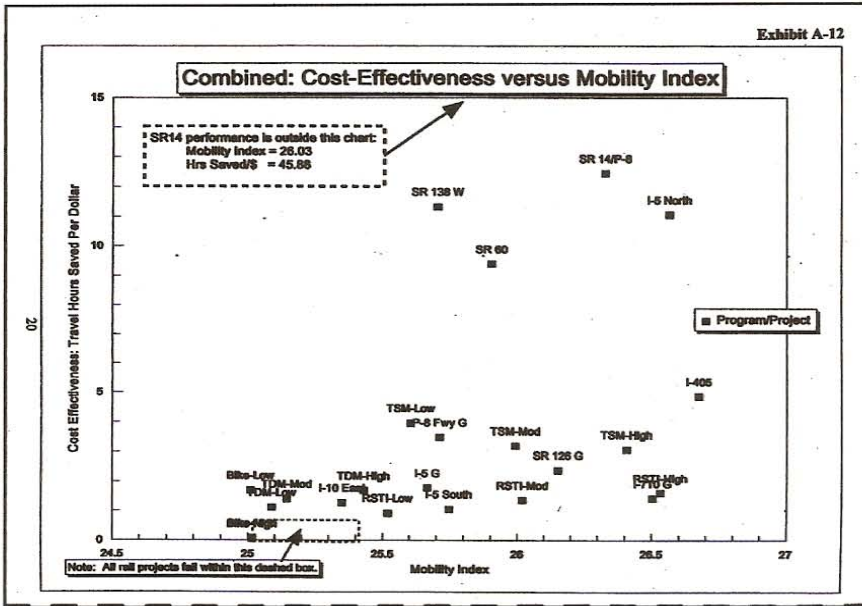
Nor would the shift to rail necessarily produce the projected congestion and air quality benefits. Even using the MTA's own criteria, rail options fared poorly in this regard compared to investing in buses and other travel management strategies.⁶⁴ Charts in the LRP comparing cost-effectiveness versus Mobility and Air Quality Reductions showed rail projects as a whole performing poorly compared to other actions such as Travel Demand Management (TDM), Transportation Systems Management (TSM) and highway improvements (see Figure 8.4). Note that all the rail projects are clustered in the lower left hand portion of both charts, indicating comparatively few benefits and low cost-effectiveness. As for comparisons between individual rail projects, here the LDF attorneys strongly objected to lack of any analysis at all of the Pasadena and Valley rail projects, other than as part of the Baseline.⁶⁵

⁶³Work trips are projected to increase 9.22% from 419,610 in the 1990 Baseline, to 631,167 in 2015 with the adopted Plan, including the bus expansion program (Scenario 1). MTA Long Range Transportation Plan, Ex. A-15.

⁶⁴Thomas Rubin, A Presentation to the Los Angeles County Metropolitan Transportation Authority Board of Directors Regarding Concerns about the Long Range Plan, no date, pp. 9-15.

⁶⁵Letter from Constance L. Rice, NAACP Legal Defense and Education Fund, Inc., to Franklin White, December 13, 1994.

Figure 8.4. Mobility and Air Quality Benefits of Rail Projects



Source: MTA 1995 Long Range Plan, Exhs. A-12, A-13, pp. A-20-21.

Rubin and the BRU also took issue with many of the Plan's fiscal assumptions. Among these were that there would be no new revenue sources over currently available local, state and federal funds, but that federal Section 9 transit operating funds would continue to be available at prior levels (\$45.5 million) for FY 94-95 and beyond, Section 3 New Rail Starts funds would be made available consistent with prior allocations, and the state would keep all its rail bond commitments.⁶⁶ The Plan also assumed the federal government would pay for 50 percent of the work remaining on the Red Line as well as for the SFV East/West and Eastern and Western Extensions of the Red Line, though the timing of those projects could be affected should that not occur. To plan for that possibility and to comply with federal guidelines to receive additional funding, the Plan set up a \$700 million contingency reserve fund. As discussed below, the Federal Transit Administration (FTA) eventually froze spending on the Red Line until the MTA could produce a more credible financing plan.

While the Long Range Plan represented a more cautious planning document than its predecessor, the 30-Year Plan, it clearly would not satisfy everyone. The LDF Attorneys objected to the Plan on the grounds that it would still lead to devastating reductions in bus service for transit dependents. They charged that the one-third

⁶⁶Only \$1 billion of the \$3 billion in state rail bonds that were authorized by Prop 108 and 116 were approved by the voters. Prop 181 (1992) and Prop 185 (1994), that would have authorized the remaining \$2 billion, were both defeated. The state promised to use other funds for projects in the STIP that would have been funded with these monies. Prop 116 authorized the state to sell \$1.99 billion in GO bonds for rail capital and bikeway projects.

decrease in off-peak trips would deprive a significant portion of the County's minority poor population of their personal mobility for seeking work, education, shopping, medical, church, social, and other essential purposes.⁶⁷ Another area of concern raised was that the LRP did not increase mobility for the minority poor and other transit dependents or increase their access to jobs in outlying areas. In these critics' view, the Plan simply ignored the MTA's obligation to provide adequate transit to residents without access to automobiles. Their criticisms of the LRP added fodder to the lawsuit as the Plaintiffs sought to portray the MTA as systematically discriminating against very low income bus riders.⁶⁸

Board approval of the Long Range Plan certainly did not end the controversy over the rail program. The BRU presented the Board with an alternative to the Long Range Plan designed to correct past discriminatory policies that undermine the mobility of minority, transit dependent populations.⁶⁹ The proposal renewed their call on the MTA to expand the bus fleet by 1,100 buses over a five-year period, and gradually reduce base bus fares to \$0.50 and the cost of a monthly pass to \$20. The BRU estimated that their plan would carry 100 million more passengers per year than the MTA's Long Range Plan at less cost, since ridership could be expected to increase from 358 million to 679 million

⁶⁷Letter from NAACP Legal Defense and Education Fund, Inc., to Franklin White, December 13, 1994.

⁶⁸Plaintiffs' Contentions of Fact and Law, Section II.E., ¶¶ 423-441, pp. 141-148

⁶⁹Labor/Community Strategy Center, Bus Expansion Plan - Description of the Model, August 18, 1995.

by FY 2015, compared to only 583 million under the MTA Plan. The MTA responded that BRU plan would actually generate fewer riders than predicted (though admittedly still more than the Long Range Plan) and that it would cost \$17.2 billion while only saving \$1.3 billion in avoidable rail operations expenses and debt service costs.

According to the MTA, while the BRU Plan would provide greater mobility to transit dependents, it would ignore the needs of other county residents by increasing congestion and reducing travel speeds compared to the multimodal (read rail included) Long Range Plan. The BRU called on the MTA to spend \$50 million to improve the bus system to provide poor minority and other urban riders access to jobs in outlying areas. They insisted that the MTA give consideration to the needs of poor people in any fare restructuring plan. They also demanded that the MTA clearly document its financial resources it intended to use to construct each of its proposed rail lines, and consider delaying work on projects such as the Pasadena Line if the agency could not show it had funds to pay for improving the bus system.⁷⁰

As the BRU and the MTA sparred over the merits of the Long Range Plan and its potential impact on bus riders, the parties actually made some headway toward resolving the standoff over the fare increase, though it would take another round before Judge Hatcher before they would actually sit down at the bargaining table.

⁷⁰*Los Angeles Times*, September 15, 1995.

Summary Judgment Motion

On November 13, 1995, prior to a full trial, the MTA filed a motion for summary judgment in the Bus Riders Union lawsuit asking the court to dismiss the case against the agency on the basis that there were no legal grounds to prevent the MTA from raising fares.⁷¹ Plaintiffs opposed the motion, laying out their evidence of the MTA's history of discrimination, including its failure to adequately address the issues raised in the McCone Commission Report and the Inner City Needs Assessment, the lack of rationale for the fare increase, and the aforementioned objections to the Long Range Plan.⁷²

Plaintiffs contended that for years, while the MTA's predecessor agency, the RTD, voluntarily assumed responsibility for several lines in predominantly white communities, it repeatedly refused pleas from minority leaders to extend bus service to the African American community and agreed to provide service only after legal and political pressure to do so. Although after 1972, when the RTD acquired the Watts Blue & White Lines, minority neighborhoods received bus service, the RTD allegedly continued to refuse to link predominantly minority neighborhoods to non-minority areas

⁷¹Memorandum of Points and Authorities in Support of Notice of Motion and Motion for Summary Judgment or, in the Alternative, Summary Adjudication, November 13, 1995. Although in this situation the MTA was the moving party, in order to survive a motion for summary judgment the Plaintiffs were required to produce facts to support each element of their asserted claims. *Celotex Corporation v. Catreat*, 477 U.S. 317, 323, 91 L.Ed.2d 265, 273-74, 106 S.Ct. 2548, 2552 (1986).

⁷²Plaintiffs' Opposition to Defendants' Motion for Summary Judgment or, in the Alternative, Summary Adjudication, December 4, 1995; Plaintiffs' Statement of Genuine Issues of Material Fact, December 4, 1995.

through bus lines or shuttles. Throughout the 1970s, Plaintiffs charged, the RTD delivered significantly better bus service to predominantly white suburbs from Pasadena to the San Gabriel Valley than to predominantly minority communities relative to the demands and needs of those communities. For instance, they claimed the RTD had altered its Grid Bus Services system for bus lines serving minority communities, forcing riders to make two, or three or more transfers for many trips when previously direct or one transfer service was available, while bus lines in predominately white San Fernando Valley were not affected. Plaintiffs also charged that the MTA continued the practice of assigning older, poorly maintained buses to the inner city while premium, express and flyer services, which transport riders from the suburbs to the CBD and Wilshire Corridor, always had the best equipment even though inner city buses operated at as much as 140 percent of passenger seating capacity each day. Finally, the Plaintiffs complained that the RTD provided white transit communities with more reliable bus runs, more direct express routes, newer buses, and superior maintenance, so that suburban patrons were not subjected to the continuous and routine overcrowding confronting inner city bus riders.⁷³

As for its rail program, according to the BRU, from 1971 through 1988, as certain areas became predominately minority, the RTD and LACTC allegedly changed plans from developing rail systems serving South Central, to plans for systems that provided rail service almost exclusively to the predominately white suburbs, in effect creating a

⁷³Plaintiffs Contentions of Fact and Law, November 20, 1995.

ring around the inner city. The RTD management initially refused to include the Crenshaw rail station stop on Wilshire Boulevard Metro rail line, they charged, until pressured by community representatives and elected officials at a public hearing. And, they pointed to the fact that in addition to expending substantial federal and state tax revenues legally committed to rail development, the MTA had shifted its discretionary funds, which could be used to improve bus service, into subway and light rail construction that served a disproportionate number of white riders and placed transportation resources, which generate jobs and economic development, in predominantly white communities. Plaintiffs also offered evidence that since the passage of Prop A, the MTA has been diverting resources from its bus operations toward its rail program which resulted in increased costs and decreased transit ridership. The higher cost of operating rail service compared to bus service, they asserted, along with the cost overruns and other problems associated with rail construction had contributed to the MTA's financial problems which the agency was using to justify its fare increases. The Plaintiffs' experts also testified that the MTA had alternative sources of funds available to balance its budget and therefore the fare increases were not needed.⁷⁴

Through the collective efforts of the attorneys, the Plaintiffs organizations, and their experts, the Plaintiffs coalition presented evidence that, on average, higher income, white rail riders received larger subsidies and better levels of service than minority, lower

⁷⁴Plaintiffs' Contentions of Fact and Law, November 20, 1995.

income bus riders. For example, one analysis showed that, including both capital and operating expenses, a Metrolink rider received a \$21.02 public subsidy per trip compared to a subsidy of \$1.17 per bus ride. Including capital costs is important in intermodal comparisons because these costs are significantly higher for trains operating in partially or fully exclusive rights of ways than for buses that share the street system with automobiles. Comparisons between operating costs of bus and rail ignore the fact that operating costs constitute the majority of the total bus costs while only a small part of total cost of rail. Subway (\$2.92 per ride) and light rail (\$11.34 per ride) passengers also received higher subsidies than bus riders (see Table 8.3).⁷⁵ Since rail riders received greater subsidies than bus riders, and those making longer trips receive even higher subsidies, the Plaintiffs concluded that given the racial and ethnic composition of bus versus rail riders, minorities, as a group, received lower subsidies than white riders.

These comparisons actually understate the disparity because rail lines are usually located only in the most heavily-traveled transit corridors. For example, the lowest bus subsidy, on the heavily patronized 204 Vermont line, was just 34 cents.⁷⁶ In 1992, the Vermont line carried 60 percent more passengers than the entire Blue Line (18 million compared to 11.3 million). In fact, the MTA's seventeen most heavily patronized bus lines carried sixteen times the number of passengers for the same total annual operating

⁷⁵Rubin (1994).

⁷⁶Rubin (1992).

cost as the Blue Line.⁷⁷

Table 8.3. MTA Passenger Subsidies by Mode, 1992

	Total Subsidy per Passenger	Capital Subsidy	Operating Subsidy
Metrolink	\$21.20	\$17.19	\$3.83
Blue Line	11.34	8.27	3.07
Red Line	2.92	2.63	0.29
Bus	1.17	0.25	0.92

Source: MTA (1994).

The MTA's own 1993 Inner City Transit Needs Assessment Study found that subsidy levels were lowest in poor, minority areas and that the farebox recovery ratios were the highest. The highest levels of crowding were in South Central, Hollywood, and other poor, minority areas. Even accounting for the fact that subway and rail trips tend on average to be longer than bus trips, the total subsidies per passenger-mile by mode in

⁷⁷Rubin (1994). Rail construction is costly and the unit operating subsidies for rail service exceed the operating subsidies required by bus services. For example, according to data published by the MTA, the Long Beach Blue Line required an operating subsidy in FY 1992 of \$128.1 million. The subsidy covers labor, electrical power, maintenance and other recurrent operations costs but not the cost of constructing the line or purchasing rail cars. The subsidy for this single rail line was equivalent to the public subsidy necessary to operate the seventeen most heavily traveled MTA bus routes which carried a total of 183.6 million passengers, or sixteen times the 11.3 million passengers carried by the Blue line. The MTA claimed that it was premature to make comparisons between bus service and the Blue Line since the Blue Line had only been in service for a short time and had not yet reached a stable equilibrium.

1992 were still higher than for buses, as shown in Table 8.4.⁷⁸

Table 8.4. MTA Per-Mile Passenger Subsidies by Mode, 1992

	Total Subsidy per Passenger-mile	Capital Subsidy	Operating Subsidy
Blue Line	\$1.25	0.91	0.34
Red Line	0.83	0.75	0.08
Metrolink	0.70	0.57	0.13
Bus	0.31	0.07	0.24

Source: MTA (1994).

Plaintiffs experts also examined subsidy differentials between bus lines with high minority patronage and those with low minority patronage. The experts used data from the MTA's 1991, 1992 and 1993 On-board Origin-Destination surveys. These surveys represented the three most recent years available when the analysis was undertaken. The experts assumed that actual ridership demographics were consistent over the three year period and combined all three years' worth of data into a single data base of 16,021

⁷⁸The MTA's experts argued that for transit operators the cost to supply service varies with *vehicle* miles. Therefore calculating service costs per passenger miles was not appropriate since it did not imply any causality between the cost of bus service and passenger miles. In other words, costs do not increase if there are more riders. Measuring costs by passenger miles is however, appropriate for determining passenger subsidies which are obtained by subtracting the amount of fare collected either per mile or hour from the cost of service (expressed in miles or hours). Costs per vehicle mile or vehicle hour of service are a measure of service *efficiency* where costs or subsidies per passenger mile or passenger hour is a measure of service *effectiveness*.

respondents who provided information on their race/ethnicity.⁷⁹

Response rates varied between lines, and not all lines contained data for all three years. The combined data indicated that MTA ridership over the period was about 76 percent minority, 22 percent white and 2 percent other. Information on total weekday boardings on each line for each year was used to determine a weighted average percentage minority ridership for each line. Two different types of analysis were performed. First, a comparison of different subsidies for the typical white and typical minority rider using survey data on average trip length and mode usage by race/ethnicity. Second, a comparison of average subsidies on the 25 bus lines with the highest minority ridership and the 25 lines with the least minority ridership.

The data indicated that whites were more likely to use express buses and the Blue Line than regular buses. Buses received the lowest subsidy per passenger boarding followed by the Blue Line and express buses. By multiplying the total number of boardings by white riders on each mode by the subsidy per boarding and dividing by the total boardings, the average subsidy for a typical white passenger could be calculated.⁸⁰

⁷⁹The MTA survey did not formally differentiate race and ethnicity but asked respondents to identify themselves as either white, Hispanic, black, American Indian, or other. There is a possibility that some Latino survey respondents identified themselves as white rather than Hispanic.

⁸⁰Transit planners distinguish between linked and unlinked trips. A linked trip is one that involved one or more changes in line or mode, as when a bus patron must transfer to a different bus to complete a single trip. Unlinked trips are either complete trips on a single vehicle or the individual segments of a linked trip. Data on passenger trips is typically reported as unlinked trips.

The same technique produced the average subsidy for a typical minority passenger. The results obtained by the plaintiffs' experts is shown in Table 8.5 below.

The Plaintiffs' experts concluded that as a group, minority riders pay substantially more for MTA services than do white riders primarily due to the fact that minorities, as a group, tend to use fewer expensive-to-provide express and rail services and more inexpensive local bus service than white riders. The MTA contended that it was not proper to measure subsidies on a per passenger boarding basis. Rather, they argued that the average minority rider makes more bus trips per day and makes more transfers than a white rider receives a higher per person subsidy, not lower.

Table 8.5. Average Subsidy per Boarding, White and Minority MTA Passengers

	White Passengers	Minority Passengers	Absolute Difference	Percent Difference
Operating Subsidy per Boarding	\$1.34	\$1.15	\$0.19	-17%
Total Subsidy per Boarding	\$1.91	\$1.63	\$0.28	-17%

Source: Taylor, et al. (1995).

Using MTA data on passenger mile and passenger hours for each line, differences in per hour and per mile subsidies can also be calculated to test for differences in total

service consumed between white and minority passengers. As MTA fares do not vary with distance, minority riders pay on average higher fares per mile of service than whites, since minorities take shorter trips on local buses and whites tend to take longer trips and use express buses and rail lines more.⁸¹ Table 8.6 shows that by normalizing for trip length, the differences in subsidies between whites and minority is reduced but not eliminated entirely, suggesting that a substantial portion of the differences in subsidies can be attributed to differences in average trip length, and the remainder to differences in mode of travel.⁸²

⁸¹One passenger hour equates to carrying one passenger for one hour, two passengers for 30 minutes each or six passengers for 10 minutes each. Similarly, one passenger mile is equal to carrying one passenger for one mile, two passengers for one half mile each, and so on.

⁸²Subsidies can also be affected by time of day and direction of travel since it is more expensive to provide service during the rush hour commute and in the rush hour direction as labor and capital are underutilized in the off-peak period and traveling in the off-peak direction relative to peak service. Due to limitations in the data, the experts could not undertake an analysis of racial and ethnic differences in peak and off-peak subsidies. With appropriate data, however, this represents another potential avenue to argue that disparities exist in service between minorities and non-minorities. As it is the case that minorities, as a group, tend to travel more during the off-peak period and tend to take more trips going in off-peak directions than do whites, then minorities would be receiving less expensive-to-provide service relative to whites. If the transit operator charges fares that do not differentiate between time of day or direction of travel, as does the MTA, minorities would be paying a higher proportion of the actual costs of service than whites and therefore would be receiving a lower subsidy per ride. Iseki & Taylor (2002).

Table 8.6. Average MTA Subsidy per Passenger Hour/Mile

	Passenger Hours			Passenger Miles		
	White	Minority	% Diff	White	Minority	% Diff
Operating Subsidy	\$4.45	\$4.05	-10%	\$0.32	\$0.31	-0.3%
Total Subsidy	\$5.33	\$4.99	-7%	\$0.38	\$0.38	0%

Source: Taylor, et al. (1995).

The MTA vigorously disputed the assertions put forth by the Plaintiffs and their experts, challenging some of the statistical procedures used in the Plaintiffs analysis but not the general logic of the approach.⁸³ They simply argued that since Los Angeles is such a polynucleated urban area the MTA experiences less deadheading to runs and fewer empty backhauls than most systems. As a result, service peaks on the MTA tend to be almost equal going toward the downtown as away from it. Thus, differences in costs of service based on peak time, peak direction, trip length and travel modes are smaller for the MTA than other systems.⁸⁴

⁸³The MTA experts contended that it was inappropriate to combine data from different years on each line since the surveys were not designed to randomly sample passengers on each line.

⁸⁴At the time the lawsuit was filed, the MTA's fares were already substantially higher than those charged by other public transit operators in Los Angeles County and were substantially higher than the fares charged by most public transit systems nationwide. Plaintiffs contended that the program to expand rail, Foothill Transit and LADOT bus lines serving a disproportionately white ridership had a negative impact on the remaining bus service and that minority riders experienced disparate impacts in subsidies and service.

A Settlement in the Lawsuit

On December 22, 1995, after considering the evidence and argument presented by both side, Judge Hatter summarily denied the MTA s motion paving the way for a full trial.⁸⁵ By granting the preliminary injunction and now ordering the case to trial, Hatter had sent a clear message to the MTA that the Plaintiffs had presented a credible case of discrimination. A trial would have exposed the MTA to additional negative publicity and might have forced Board members to testify publically concerning their actions. It also raised the possibility of an adverse judgment and a court-imposed civil rights remedy that could have seriously hampered the agency s rail programs. At that point, the MTA agreed to submit to mediation and each side proposed a list of possible mediators. The court eventually appointed Richard Bliss, a former assistant to U.S. Transportation Secretary William Coleman and senior attorney with O Melveny and Myers in Washington D.C., as Special Master. His participation in the case ultimately led to a settlement between the parties. Special Master Bliss met with both sides and began to develop an outline of concerns that would need to be addressed in any agreement. He requested that both sides prepare an analysis of the main issues in the case and suggestions for addressing them that could form the basis for negotiations, and through a number of meeting with the attorneys played a major role in assisting the parties in

⁸⁵Order Re Motion for Summary Judgment, together with Moving and Opposing Papers, December 12, 1995. The court without discussion, merely ruled that: It is ordered that the motion be, and hereby is denied.

crafting the final language of the settlement.

In approaching settlement discussions, both sides had a number of objectives. From the Plaintiffs' standpoint there were some complexities, owing in part to the nature of class actions. First, while the attorneys technically represented to interests of the class, they also had several named individual and organizational members of the class that in some instances had conflicting views of an acceptable outcome. In addition, there were a number of individuals who were assisting the Plaintiffs with expert advice who also had particular viewpoints of how the issues in the lawsuit could or should be resolved. With those qualifiers the Plaintiffs coalition was basically agreed that the foremost goal was keeping transit affordable to low income and minority transit dependents in the class. The L/CSC and BRU were principally interested both in keeping the MTA fares low and forcing the MTA to upgrade and expand the bus fleet to provide additional peak-period service on the most crowded lines, provide more off-peak service, and establish new bus routes to expand access to jobs and other services. Keeping fares low, however, can be problematic in terms of the goal of reducing crowding. The MTA was already one of the most highly patronized transit systems in the nation, but lowering fares typically leads to even higher ridership, which could lead to more instances of crowding. At the same time, improving service to accommodate more riders would lead to higher costs, making it less likely the MTA would agree to such a settlement without further fare increases. But the BRU did not want the MTA to reduce crowding by reducing service or raising fares to

discourage ridership.

Beyond the immediate issues of fares, service, and passenger loads, some of the Plaintiffs' experts suggested that it was important to keep the focus on broader long range principles such as equalizing the level of travel subsidies by mode and geographic area. They wanted to see the MTA agree to certain overarching principles committing it to meeting the needs of low income transit riders in the future and to incorporate those principles in all its future plans. These included guaranteeing no discrimination in subsidies against any class of riders or geographic area of the county, adopting uniform service standards, and giving bus service improvement equal priority to rail planning.

Under its new CEO, Joseph Drew, the MTA had already begun developing a Bus Service Improvement Plan (BSIP) to address concerns in the South Central, East Los Angeles and Pico Union areas, which provided for adding a total of 102 new buses by June of 1997. At the same time though, he pressed the Los Angeles City Council to release \$200 million in local return funds to complete the MOS-3 segment of the Red Line, and pushed ahead with securing funds for the Pasadena Line. Plaintiffs were concerned that the MTA was trying to lock in funding for rail ahead of any agreement so that it would not be available for bus improvements. The BRU called for the MTA to suspend rail planning and construction until the agency committed funds to purchase

1,400 new buses over a five year period, with additional buses added over ten years.⁸⁶

The BRU wanted the MTA to spend at least as much on bus improvement as on the Pasadena Line, an estimated \$1.2 billion.⁸⁷ The BRU also wanted the MTA to adopt service standards that would guarantee a seat for every passenger on the system's most heavily patronized bus lines.⁸⁸

As to fares, the BRU was opposed any new distance-based or zone-based fares, endorsed by some of the Plaintiffs' own experts, as barriers to access to locations outside the immediate residential areas of many members of the class.⁸⁹ The BRU took the position that time or distance-based differential fares, such as off-peak pricing proposals, would reduce mobility for those transit dependants who have to make long distance trips and trips at rush hours. Another objective of the BRU was to not only retain unlimited ride bus passes, but to see the MTA offer one week or two week passes at a reduced price

⁸⁶In 1991, the LACTC had proposed expanding the bus fleet by 578 buses by 2000, and 967 by 2010. LACTC, *An Assessment of Future Bus Requirements in Los Angeles County*, 1991.

⁸⁷Cancelling the Pasadena Line, or any other project with outside funding, would not necessarily free up an equivalent amount of funds for bus improvements since in most cases the outside funding was only available for rail uses, but it would have release some of the discretionary local Prop A and C funds. It could also have reduced somewhat the future risk of cost overruns, as experienced with the Blue and Red Lines.

⁸⁸The MTA had a policy of carrying no more 1.45 riders per seat on its buses during peak period but did not always adhere to this standard, particularly in inner city areas where patronage was highest. On a standard 43-seat bus this would mean having no more that 19 standees. While there was agree among the members of the Plaintiffs' legal team that the MTA should decreased crowding on many of its lines, supplying enough buses to achieve a no standees policy even during peak periods would mean higher labor costs and that many buses would be underutilized at other times.

⁸⁹Luhrsen & Taylor (1997).

for those too poor to afford the cost of a single monthly pass. It also wanted to see the MTA aggressively market its pass program so that transit riders could be aware of the availability of passes that might benefit them. Others on the Plaintiff s team believed that tokens or user subsidies would be preferable to short-term passes, which might not sell well enough to justify the higher administrative costs.

Another concern that the Plaintiffs had as a group was for the MTA to overhaul its rail planning process. The BRU was particularly interested in stopping the MTA s rail plans, especially the Red Line East and West Extensions, the San Fernando Valley Line, and the Pasadena Line. While that seemed unlikely, there was more general agreement that the MTA should not have any incentive to shift future resources from bus services to rail construction, at least if it failed to meet all its obligations under a negotiated agreement. Finally, the Plaintiffs teammembers were concerned that the culture of the MTA had led it to ignore important concerns and that members of the agency should not be the sole voice in the planning process. In that regard, the BRU demanded to have a clearly defined role in policing any agreement.

In September 1996, the attorneys for the class and the defendants reached an agreement to end the lawsuit in which the MTA promised to use all its uncommitted revenues to improve bus service to meet the needs of transit-dependent residents in low income communities. The LDF attorneys believe that the threat of prolonged litigation

had been critical to bringing the MTA to the bargaining table as a serious negotiator. In their view, the MTA simply did not take the criticism from bus riders seriously until it realized the LDF was prepared to litigate aggressively. It is important to note, however, both sides had strong incentives to settle the case. For the Plaintiffs, the advantage of settling the case was that LDF lawyers would be able to have a direct role in shaping the future institutional direction of the MTA. Facing the prospect of a potentially damaging public trial and a possibly adverse decision, a settlement allowed the MTA to retain control over its operations and enabled it to structure the terms of its future obligations in a way that it believed would not be too burdensome to achieve.

In October of 1996, the parties entered in to a formal Consent Decree that legally bound the MTA to improve its bus system and submitted the document for court approval. A summary of the main provisions of the Consent Decree is provided in the accompanying text box. The Decree remains in effect until 2007 and the district court retains jurisdiction to oversee its implementation. The MTA could petition to terminate the Decree after seven years time if MTA substantially complied with all its terms and had in place a five-year service plan adhering to the agreement s principles and objectives. The terms of the settlement provide for the MTA to expand its bus fleet and make other improvements directly addressing the civil rights violations alleged by

Plaintiffs.⁹⁰

⁹⁰From the outset, the parties disagreed on the cost of compliance with the terms of the settlement agreement. The MTA staff eventually put the cost of compliance at \$475 million. The Plaintiffs estimated the cost at more than \$1 billion. The cost of the Bus Service Improvement Plan was an additional \$135.2 million.

SUMMARY OF CONSENT DECREE

1. MTA commits to insuring that all transit patrons in Los Angeles county, without regard to race, color, or national origin, have equal and equitable access to a fully integrated mass transportation system that effectively meets the needs of all riders. MTA Board adopts as its highest priority, improvement of the quality of bus service in Los Angeles.
2. MTA to add buses and take other action to reduce maximum load factors on all bus routes overall from 1.45 to 1.2, with at target of 1.35 by December 31, 1997, a target of 1.25 by June 30, 2000 and a target of 1.2 by June 30, 2002.
3. MTA will increase its bus fleet by 102 buses by June 30, 1997.
4. MTA will implement a two-year pilot program of 50 buses and develop a five-year program for new bus service to facilitate access to job, education and health centers.
5. MTA will enhance bus security, improve bus stops, increase user-friendliness and improve bus service efficiency for transit dependent riders and consult with representatives of riders to improve bus service to the transit-dependent.
6. MTA will (a) to reduce the cost of monthly passes from the present \$49 to \$42 and to provide \$21 semi-monthly and \$11 weekly passes; (b) institute discount fares of 75 cents during off-peak periods on selected lines that are heavily used by transit dependents and (3) retain the present \$1.35 base fare, 25 cents transfer, 90 cents token, and passes for senior, disabled and student riders.
7. The fare structure is frozen in place for three years for general passes and for two years for the remaining fares, with a procedure for fare increases to reflect the consumer Price index with special reference to the household income of the bottom quartile of the Los Angeles population until October 1, 2003.

The Consent Decree committed the MTA to insuring equal and equitable access without regard to race, color or national origin. And, it provided that the MTA would give highest priority to improving the quality of the system to meet the needs of transit dependents. The MTA also agreed that all capital planning and programming would give attention to all modes and all areas of the county. Though it did not deal directly with rail planning or construction it specifically required that all bus-eligible revenues be devoted to improving bus service for transit dependents. Finally, the Decree mandated changes in the MTA's transit planning process such as requiring that all future MTA long-range plans, major capital projects, and annual budgets must include a section on meeting the needs of transit dependents. And, perhaps most significantly in the long run, this comprehensive agreement also gave the Plaintiffs a direct role in monitoring the MTA's progress in implementing the settlement by establishing a Joint Working Group (JWG) made up of representatives from the MTA and the Plaintiffs to foster cooperation in implementing the decree and a procedure for resolving outstanding issues related to the Decree.

The agreement addressed three substantive issues: fares, overcrowding, and additional bus service. First, as for fares, the agreement required that the MTA continue to sell a \$42 monthly pass, and also to offer two-week and weekly passes for \$21.50 and \$11, respectively. The MTA could, however, introduce a low-income discount pass to be sold to qualified persons. In addition, it froze the then current fare structure for two years

and limited future increases to changes in the Consumer Price Index over the following seven years. The MTA could adopt a 75¢ off peak discount fare on selected lines used by transit dependents. There was no mention in the agreement of zone fares, however.

Second, the decree committed the MTA to reducing the maximum load factor (ratio of bus passengers to seats) for all bus routes and to expanding existing bus services with the addition of over 100 new buses to improve mobility and provide greater access to educational, employment, and health care centers.⁹¹ In addition, the MTA agreed to enhance security, provide new bus services, as well as design and implement new routes. The load factor requirement, originally proposed by the MTA in the settlement discussions, would prove particularly contentious between the parties, as discussed below. To facilitate an agreement, and rather than pledging to add a specific number of new buses to its fleet, the MTA promised to reduce the ratio of the number bus passengers to bus seats (based on a standard 43 seat bus) for all bus routes from its existing policy of a maximum of 1.45 passengers per seat down to 1.2 according to the following schedule:

December 31, 1997	1.35	(15 standees)
June 30, 2000	1.25	(11 standees)
June 30, 2002	1.2	(9 standees)

⁹¹The promise to add 51 new buses by the end of 1996 and an additional 51 buses by June 30, 1997, was basically part of the MTA's proposed Bus Service Improvement Plan.

Thereafter, the MTA agreed to maintain the 1.2 Load Factor Target (LFT) for the duration of the Consent Decree. By agreement the ratio was to be measured during any 20 minute weekday peak period in the peak direction of travel on each line, and during any one hour time period during non-peak periods. If the MTA were to fail to meet any one of these targets, the Consent Decree required the agency to reallocate funds, such as Prop A and Prop C discretionary monies, in order to meet the next lower LFT according to the above schedule.

Third, the settlement promised to increase accessibility in low income areas. The Consent Decree mandated improvements in the quality of bus service for transit-dependent populations of Los Angeles and provided guidelines for how this goal would be met. In addition to following through on its Bus Improvement Program, the MTA agree to begin a 50-bus Pilot Program and eventually develop a five-year plan to increase access to job locations, educational and health care facilities in the county.

The agreement represented a compromise on a number of fronts. The Plaintiff s won on keeping bus passes and obtaining some lower cost passes, but the MTA retained its basic fare hike that had prompted the lawsuit, though it lost some flexibility to seek further increases. Both sides agreed, at least in principle, to improve bus service, but the plan to reduce crowding would prove particularly contentious. Though the MTA did not commit to a specific number of additional buses and hours of service, it did adopt a

formula that if properly implemented, would achieve the Plaintiffs' objective of reducing crowding. While the formula committed the MTA to some increase in the number of its buses, the parties clearly had different perceptions of how much would be required to achieve the Load Factor Targets, and to improve countywide service, as discussed below.

The Southern Christian Leadership Conference approved the agreement in total. The seven remaining named plaintiffs approved it in general but strongly objected to the low income pass provision since they felt it was demeaning for low income persons to have to prove their poverty status in order to obtain a discounted pass. The BRU believed so strongly that it should not concede this point that they actually rejected the settlement and went as far as to temporarily fire the LDF as their counsel and retain separate legal representation in order to challenge the agreement in court. The BRU believed that it represented the interests of bus riders and that it should remain in control of the litigation rather than the LDF attorneys. As previously noted, in a class action lawsuit, as a practical matter the attorneys actually represent the interests of the various plaintiffs and the court must ultimately decide whether any settlement is in the best interest of the entire class, in this case all low income minority transit riders, not just those who were members of the BRU. Despite the BRU's objections the court ultimately approved the settlement in a special fairness hearing. Nevertheless, even with this setback, the BRU leaders

asserted that they had stood up for an important principle.⁹²

The settlement mandates that the MTA's *first priority* will be improving the quality of bus service in the county and that future capital improvement planning and programming will give priority to meeting the needs of transit dependents. It specifically requires the MTA to reallocate sufficient funds from other programs to cure any deficiencies in passenger loading requirements.⁹³ The Plaintiffs believed that, if successfully implemented, this Consent Decree would mean a major shift in philosophy for the MTA from its present focus on constructing new rail transit lines to improving existing local bus service. Before examining how the settlement has worked out in practice, particularly the role played by the Joint Working Group in monitoring the MTA's compliance with the terms of the agreement, it is worth taking a look at the MTA's own continuing efforts to put its financial house in order, especially in light of the added costs to comply with the Consent Decree.

⁹²The court did interpret the terms of the settlement agreement to provide that any low income pass proposal would have to first be submitted to the JWG and go through the entire resolution process before it could be implemented, a finding which the BRU considered a vindication of its position.

⁹³Consent Decree, ¶ II.A.4.

Federally-Mandated Recovery Plan

It didn't take long for the wheels to come off the MTA trolley. In spite of its efforts at fiscal management, the agency continued to run in the red. Although the \$3.0 billion FY 1995-96 budget was balanced on paper, by January 1996 the projected operating deficit reached \$28.3 million. It was already becoming clear that even the scaled-down Long Range Plan would simply be infeasible. Following the entry of the Consent Decree which required the MTA to significantly improve its bus services, the federal Department of Transportation (DOT), became increasingly concerned over the MTA's ability to handle the management challenges and construction problems it faced. FTA Administrator Gordon Linton warned the MTA to develop a new 20-year financial plan by January 1997 and recovery plans to guarantee timely completion of the Red Line and its East Side segment.⁹⁴

The Hollywood subway was mired in controversy, the result of a construction problems, mismanagement, and charges of corruption. It was costing roughly \$300 million a mile to continue tunneling and even some MTA Board members were openly

⁹⁴Federal Transit Administration, Statement of Federal Transit Administrator Gordon J. Linton Regarding Meeting with Members of the Board of Directors of the Los Angeles County Metropolitan Transportation Authority, December 16, 1996. Linton also required the MTA to adopt a Code of Conduct to prevent Board members from improperly influencing contract and procurement matters. He also continued the suspension of federal funds for the Mid-City segment until the financial and recovery plans were approved and the MTA could demonstrate how this segment could be constructed within existing fiscal constraints.

questioning the expense.⁹⁵ Chief Executive Officer Joseph Drew, who had replaced Franklin White, had resigned. The federal government was cutting back on funding, supplying only about half of its promised \$158 million a year through 2000, and Transportation Secretary Peña was threatening to withhold another \$31 million until the MTA's financial plan was in place. Critics like Rubin and Moore were calling for the MTA to admit that the rail plan was dead and switch to buses.⁹⁶ Noting that the MTA had lost nearly one-quarter of its ridership since subway construction began, and that anticipated development around rail stations was not taking place, Los Angeles City Councilman Marvin Braude echoed those sentiments to expand and improve bus service rather than building rail to serve low-density suburban areas that merely serve political interests.⁹⁷ A Los Angeles Times poll found a slim majority of Angelenos opposed to further subway construction. Support was slightly positive among Latinos, weakest among African Americans. Valley residents more were strongly opposed than those in other parts of the City. Even Mayor Riordan suggested that subway construction should not be extended past North Hollywood.⁹⁸ Still, Board members like Nicholas Patsouras,

⁹⁵*Los Angeles Times*, Future of Subway Project Questioned by MTA Officials, December 10, 1996. The cost of extending the Red Line from Wilshire/Vermont to Hollywood was \$1.6 billion and to North Hollywood another \$.13 billion. The cost of planned extensions from Wilshire/Western westward to Pico/San Vicente was \$980 million and from Union Station to east to Lorena was at least \$490 million.

⁹⁶James E. Moore, II, and Thomas A. Rubin, *Los Angeles Times*, Admit Rail Plan is Dead and Move On, December 13, 1996.

⁹⁷Marvin Braude, *Los Angeles Times*, Rail First Leaves Commuters Last, 1996.

⁹⁸*Los Angeles Times*, L.A. Residents Divided on Subway Completion, February 7, 1997. Part B, A1.

defended further subway construction.⁹⁹

The Clinton Administration's decision to trim L.A.'s funding request for FY 1997-8 to \$99 million meant a possible two-year delay in the Eastside subway project to 2004 and pushed back the Mid-City project to at least 2009.¹⁰⁰ Despite warnings from FTA chief Linton to the MTA Board to stop squabbling over the Eastside project, the MTA voted to request an additional \$44 million for the project after three East L.A. members of Congress vowed to withhold support for further rail funding unless more money was shifted to their districts, over objections from Valley representatives concerned that the move might further delay or even derail plans for the San Fernando Valley.¹⁰¹ In June 1997, the MTA approved its Recovery Plan, which indeed proposed delaying construction of the Valley rail line from 2004 to 2007 or even 2011. In response, a coalition led by Valley politicians spearheaded a 9-2 vote in the Los Angeles City Council to withhold a promised \$200 million in City Prop A and C funds unless the Valley timetable was moved up, jeopardizing federal approval of the plan. Plaintiffs attorney Rice also threatened to go to court to block the Recovery Plan unless it included funds to implement the Consent Decree.¹⁰² Riordan helped negotiate a compromise

⁹⁹*Los Angeles Times*, Future of Subway Project Questioned by MTA Officials, December 10, 1996, -1.

¹⁰⁰*Los Angeles Times*, White House Cuts Funding Request, February 7, 1997, B1.

¹⁰¹*Los Angeles Times*, MTA Board Divided by Regional Fight Over Funds, February 20, 1997, B1.

¹⁰²*Los Angeles Times*, Local Opposition to MTA Plans Accelerates, June 7, 1997, A1; *Los Angeles Times*, City Council Votes to Hold Up MTA Funds, June 11, 1997, B1; *Daily News*, \$99 Million Gamble
(continued...)

between City and County officials that guaranteed construction would begin on the Valley project no later than the 2006-7 fiscal year or the MTA would repay the City \$50 million. The MTA also agreed to meet various specified milestones including buying 323 new buses (see Figure 8.4).¹⁰³ The deal didn't last long. Despite these actions, the FTA rejected the MTA's proposed Recovery Plan, among other things prompting the MTA to again revise its Long Range Plan and for City and the agency to consider options such as busways in the San Fernando Valley.¹⁰⁴

¹⁰²(...continued)

Council backs Valley on rail, risks federal funds, June 11, 1997, p. 1. The Valley council members were joined by Jackie Goldberg and Nate Holden who sought more buses and transit programs for low-income riders and inner-city communities in their areas.

¹⁰³*Daily News*, Valley rail work to start in '07 maybe, June 24, 1997, p. 1.

¹⁰⁴*Daily News*, Officials want to scrap rail and take bus to the future, August 11, 1997, p. 1.

Figure 8.4. Metro Rail Segment 3 Agreement

Figure 1
SUMMARY OF MILESTONES FOR METRO RAIL SEGMENT 3 AGREEMENT

Fiscal Year	City Payment	MOS-3 North Hollywood Segment Activities and MILESTONES	MOS-3 East-Side Activities and MILESTONES	MOS-3 Mid-City Activities and MILESTONES	San Fernando Valley East West Transit Project Activities and MILESTONES	Bus Procurement MILESTONES
1996-1997	58,000,000		Begin ROW acquisition			
1997-1998	3,000,000	Project under construction	START CONSTRUCTION	FTA review/approval of supplemental EIS MTA adopts LPA MTA initiates final supplemental EIS and Preliminary Engineering	FTA ADOPTION OF LOCALLY PREFERRED ALTERNATIVE STATE OR FEDERAL GOVERNMENT EARMARKS FUNDING FOR FINAL DESIGN MTA APPROVAL OF FINAL EIS FOR THE PROJECT START OF CONSTRUCTION DATE (2006-07) TO BE INCLUDED IN THE 1997 LONG RANGE TRANSPORTATION PLAN UPDATE	MTA WILL APPROVE A BUS PROCUREMENT PLAN FOR PURCHASE OF THE FOLLOWING BY 10/1/97: 1. 223 COMPRESSED NATURAL GAS(CNG) BUSES 2. 100 ADDITIONAL BUSES CONTINGENT UPON RECEIPT OF CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS. MTA WILL COMPLETE AN AGREEMENT TO PURCHASE THESE BUSES BY 11/1/97.
1998-1999	1,000,000	Pre-revenue testing	Construction	Approval of FEIS and preliminary engineering FTA Record of Decision Start final design	FEDERAL TRANSIT ADMINISTRATION ADOPTION OF RECORD OF DECISION	MTA WILL APPROVE PURCHASE OF 100 ADDITIONAL BUSES CONTINGENT UPON USING CMAQ FUNDS BY 10/1/98 AND COMPLETE PURCHASE AGREEMENT FOR THESE VEHICLES BY 11/1/98.
1999-2000	17,000,000	START REVENUE OPERATIONS	Construction	COMPLETE FINAL DESIGN	START FINAL DESIGN	
2000-2001	36,000,000	In operation	Construction	Begin ROW acquisition		
2001-2002	37,000,000	In operation	Construction	Pre-construction	COMPLETE FINAL DESIGN	
2002-2003	38,000,000	In operation	Construction	START CONSTRUCTION		
2003-2004	10,000,000	In operation	Pre-Revenue testing	Construction		
2004-2005		In operation	START REVENUE OPERATIONS	Construction		
2005-2006		In operation	In operation	Construction	Pre-Construction Activities	
2006-2007		In operation	In operation	Pre-Revenue Testing	START CONSTRUCTION	
2007-2008		In operation	In operation	START REVENUE OPERATION	Construction	

Milestones are in bold text.

Source: City of Los Angeles - MTA Agreement, July 24, 1997.

The growing doubts in Washington over the MTA's financial management led to a provision being placed in the conference report accompanying the DOT's FY 1997-98 appropriations bill¹⁰⁵ freezing federal transportation funds until the agency produced a financially constrained rail recovery plan providing for enhanced bus service in compliance with the Consent Decree.¹⁰⁶ Before eventually freeing those dollars, federal officials rejected several draft plans that did not demonstrate that the MTA could complete all of its federally-funded rail projects.¹⁰⁷ To reduce the danger of cost overruns, the FTA also separated the financing of the Red Line MOS-3 project into three separate segments, and executed a revised funding agreement covering just the North Hollywood extension, effectively placing the Eastside and Mid-City extensions on hold.¹⁰⁸

¹⁰⁵P.L. 105-66, Department of Transportation and Related Agencies Act of 1998, October 27, 1997.

¹⁰⁶MTA memo, Draft MTA Restructuring Plan (formerly the MTA Recovery Plan), April 8, 1998.

¹⁰⁷In all, the government rejected the MTA's Recovery Plan for completing all its rail projects a total of *three* times. Mayor's Office, Review of the MTA's Budget & Financial Planning, August 19, 1997, p. 9. The two additional plans were basically the original FY 97-98 Budget (based on the 1997 Revised Long Range Plan) and the Reforecast FY 97-98 Budget.

¹⁰⁸Revised and Restated Full Funding Grant Agreement. Part I-A, July 22, 1997.

Long Range Plan Revision

The MTA Board had begun considering a revision to the LRP as early as February 1996. The revised plan reflected a decline in expected revenues of 5 percent due mainly to an anticipated loss of FTA Section 9 operating and capital funds, and lower than projected sales tax and farebox revenues, matters already raised by Rubin and the BRU. The new estimated cost of the Plan was cut back to \$68.9 billion¹⁰⁹ from the original \$72.5 billion (see Table 8.7).¹¹⁰ Bus operations and capital would absorb \$2.7 billion or 74 percent of the total reductions even though they represented only 35 percent of total expenditures.¹¹¹ The MTA decided to reduce bus service levels by 100,000 hours per year (from 6.5 million to 6.4 million) for the life of the Plan, though it still counted on purchasing 300 new buses during the second decade.

¹⁰⁹Equivalent to \$85.4 billion in 2004 dollars.

¹¹⁰The 30-Year Plan had projected revenues of \$100 million over this same 20 year period.

¹¹¹MTA Long Range Plan Financial Update, Financial Summary - Adopted Plan vs. Update; Declaration of Thomas A. Rubin, January 21, 1997, p. 9, n.3.

Table 8.7. 1997 MTA Long Range Plan Financial Summary (\$ Millions)

	Adopted LRP	1997 Update	Change	
			Amount	Percent
Transit Capital				
Bus	\$3,707.6	\$3,357.1	(\$350.5)	(9%)
Rail	15,390.9	14,821.5	(569.4)	(4%)
Subtotal	19,098.5	18,178.6	(919.9)	(5%)
Transit Operations				
Bus	21,853.2	19,522.1	(2,331)	(11%)
Rail	5,376.0	4,620.4	(755.6)	(14%)
Subtotal	27,229.2	24,142.5	(3,086.6)	(11%)
Highway	12,400.3	12,611.2	210.9	2%
Local Return	5,398.1	5,286.7	(111.4)	(2%)
Other	8,350.4	8,634.8	284.4	3%
Total	\$72,476.5	\$68,853.8	(\$3,622.7)	(5%)

Source: 1997 MTA Long Range Plan Revision.

By December 1996, MTA staff had identified an additional \$1.4 billion shortfall in the budget, resulting in a further reduction in the project budget, a total loss of \$5 billion in only 20 months. The 6.3-mile Red Line North Hollywood extension was experiencing serious design and construction problems, cost increases and scheduling delays in addition to significant shortfalls in federal, state and local funding, including

nearly \$300 million in Section 5309 (formerly Section 3) federal funds through FY 96-97. The MTA proposed to shift \$300 million in other federal funds to pay for work on the Red Line extensions and the Pasadena Line.¹¹² The BRU and the other plaintiffs in the lawsuit vigorously protested the use of the last major amount of uncommitted funds for rail construction before fully complying with the Consent Decree. Once these projects were underway, they argued, it would be more difficult to stop them and the MTA could argue that any new shortfalls would have to be addressed through bus fare increases and service reductions.¹¹³ They also complained to the court that the MTA was not including any costs for purchasing new buses, apparently intending to keep existing buses running beyond their scheduled 12-year retirement dates. This would become a critical issue in implementing the Consent Decree.

The revised MTA Long Range (Recovery) Plan of June 13, 1997 programmed \$597 million (\$609 million) for bus operations in FY 1997. Still, the projected FY 1998-99 operating deficit was estimated at \$90 million. Even with the revised LRP assumptions, the deficit would remain at \$75-85 million. Although the 1997 LRP reflected expenses more in line with projected revenues, it still showed a negative bus operating balance through FY 2002 (see Table 8.8).

¹¹²The MTA was using federal Congestion Management and Air Quality (CMAQ) and Surface Transportation Program (STP) funds for several high occupancy vehicle (HOV) land projects, some of which were experiencing short-term construction delays. MTA's position was that since the Green Line projects had been delayed, they could legally use the funds for other projects, and then reimburse the fund later. Declaration of Thomas A. Rubin, January 1, 1997, pp. 30-31.

¹¹³Declaration of Thomas A. Rubin, January 21, 1997.

An FTA review concluded that the baseline FY 1997 costs were reasonable but that the plan underestimated future costs of service expansion.¹¹⁴ The Report also found that despite the merger, there were still conflicts between the Operations Division and the Regional Transportation Planning & Development (RTP&D) Division. While Operations was moving aggressively to redeploy resources to meet the needs of the community, there needed to be more attention paid at higher bureaucratic levels to fleet management. More importantly, operations issues were not being integrated into overall regional planning and decision-making, a continuing reflection of MTA's multiple and conflicting roles as both transit planner and operator.¹¹⁵

¹¹⁴Mundle & Associates, Inc. Report, March 1998, p. II-4.

¹¹⁵Mundle & Associates, Inc. Report, March 1998, pp. III-9 to III-10.

Table 8.8. MTA Projected Bus Operations Revenues & Costs, FY 1997-FY 2004 (\$ millions)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Local	558.9	553.0	562.8	603.6	626.4	637.0	694.6	706.4
State	9.6	9.5	9.7	9.8	9.8	10.1	10.2	10.4
Fed	27.8	21.1	21.1	21.1	21.1	21.1	0.0	0.0
Subtotal	596.3	583.5	593.6	634.5	657.4	668.1	704.8	716.8
Expenses	596.3	583.6	580.2	609.4	629.7	654.4	693.7	722.7
Net Change	0.0	0.0	13.4	25.1	27.7	13.7	11.1	6.0
Cash Balance	(85.0)	(85.0)	(71.6)	(46.5)	(18.8)	(5.1)	6.0	0.0

Source: MTA 1997 Long Range Plan Update, p. 94.

The MTA Board was also becoming frustrated with the continuing financial problems, most of their own making. Beginning with the firing of Franklin White, who was removed for, among other things, his criticism of the Board's actions,¹¹⁶ the MTA took a number of steps to improve its image and operations. Mayor Riordan, as new Board president, pushed through the hiring of a new CEO, Julian Burke, a corporate reorganization specialist, to replace White. The Mayor's office also undertook a review of the MTA's budgeting and financial planning procedures, which identified serious

¹¹⁶Fulton (1997).

shortcomings in projecting revenues and expenses and other accounting practices.¹¹⁷ The Mayor's audit raised concerns that if the agency continued to issue additional debt to fund its capital program, it would have to further reduce operating expenses or find new revenue sources to cover its debt service. And, it warned that the current projections in the Long Range Plan would absorb all the MTA's debt service capacity within a few years.¹¹⁸ The audit disclosed an unreported \$29 million deficit that the MTA's Board was apparently not even aware of, prompting the Mayor to call for less expensive transit alternatives such as express buses. Linda Bohlinger, acting MTA CEO, warned that the worsening economic picture could mean delays in the Eastside and Mid-City projects and postponing any planning studies for the San Fernando Valley and Crenshaw district, effectively nullifying the agreement reached only weeks earlier.¹¹⁹

¹¹⁷There included: (1) inadequate financial reporting, (2) unrealistic revenue forecasting, (3) operations funding gaps, (4) absence of a debt policy, and (5) lack of a long-term financial plan. Office of Mayor Richard J. Riordan, Review of the MTA's Budget and Financial Planning, August 19, 1997.

¹¹⁸Office of Mayor Richard J. Riordan, Review of the MTA's Budget and Financial Planning, August 19, 1997. The agency had \$3.5 billion in outstanding debt. The report criticized the MTA's practice of issuing new debt to cover interest payments on existing debt, in effect capitalizing its operating costs, since this would constrain borrowing capacity to finance future rail projects. It also identified a \$58 million gap between projected expenditures and revenues for the FY 1997-98 budget.

¹¹⁹*Los Angeles Times*, MTA Budget Found Unrealistic, Flawed, August 20, 1997, B1.

Restructuring Plan

Over the years, the MTA and its predecessor the LACTC had rejected a pay-as-you-go approach in favor of stacking debt on top of debt, borrowing to pay interest on prior loans, committing limited fare box revenues to pay for their new \$480 million headquarters building at Union Station, and paying high fees for outside consulting work.¹²⁰ On taking control of the agency, CEO Burke conducted his own review of the MTA's capital and operating budgets. Burke and his staff revised revenue projections downward based on more realistic assumptions in the growth rate of sales tax revenues. The base cost of operations was revised upwards by \$12.7 million. As a result, a FY 1997-98 operating deficit of \$50.6 million was identified and steps taken to address it.¹²¹ The FY 1997-98 capital budget was also found to have a shortfall of \$179 million which was planned to be covered by selling \$38 million in Prop A 35% rail bonds and \$141 million in Prop C 40% bonds. Most importantly, however, the review also revealed that in spite of these short-term measures, the agency simply would not have funds to construct the Red Line Mid-City, Eastside, and Pasadena Blue Line projects as called for

¹²⁰The MTA's nearly \$7 billion debt included \$3.4 billion in principle, \$3.5 billion in interest and \$120 million in consultants fees. The MTA was making loan payment amounting to \$360 million a year, or 30% of its annual operating budget. *Los Angeles Times*, State Must Rein in MTA, Official Says, June 3, 1998, B1.

¹²¹Approximately \$11.2 million was due to inaccurate revenue forecasts, and the remaining \$39.4 million in additional fringe benefits, workers compensation, public liability expenses and the delay in implementing the fare restructuring. The deficit was reduced through cuts in staff (\$34 million) and one time revenues (\$15 million) and changes in transit operations. MTA Restructuring Plan, May 15, 1998.

in the LRP (see Table 8.9).¹²² Burke concluded that these projects would simply have go.

Table 8.9. Metro Rail Extensions Cost Summary (\$ Millions)

	Eastside	Mid-City	Pasadena Line
Total Estimated Cost	\$1,271	554	856
Costs Thru FY 04	\$735.4	378.1	616.6
Revenues thru FY 04	439.8	46.1	387.7
Balance	(245.6)	(332.0)	(228.9)

Source: MTA Restructuring Plan, Ch. VII, pp. 136-146.

In January 1998, acting on Burke's recommendation, the MTA Board voted to stop all new rail construction projects other than the Red Line Segment Two and North Hollywood extension for six months pending a full review of agency finances.¹²³ On May 13, 1998 the MTA Board approved a new Restructuring Plan (to replace the previously rejected Recovery Plans) reflecting the MTA's decision to temporarily suspend further rail projects beyond those under construction. Despite the scaled-down rail program, the

¹²²The reforecasted FY 1997-98 Budget had \$812 million in capital projects compared to the adopted budget of \$1.137 billion. A shortfall of \$179 million remained to be covered by sales of Prop A 35% rail bonds (\$38 million) and Prop C 40% bonds (\$141 million).

¹²³MTA, Board of Directors Minutes, January 14, 1998. Supervisors Yaroslavsky and Antonovich and Director Zarian voted to suspend these projects entirely.

Restructuring Plan still projected a \$1.14 billion funding shortfall in bus and rail capital and operating expenses between FY 1998 and FY 2004, though MTA officials indicated that they believed this gap could be successfully closed. Still, while promising to comply with the Consent Decree, the new Plan asserted that without both short-term and long-range solutions to the structural deficits in operating and capital accounts, the agency would have to reduce transit services and/or raise fares.¹²⁴

Capital Costs

The Restructuring Plan projected about \$3 billion in capital costs over the plan period, but only around \$2.5 billion in revenues from federal (\$1 billion), state (\$567 million) and local (\$877 million) sources. The Red Line Segment Two and North Hollywood extension were considered fully funded,¹²⁵ and would require no new sales tax

¹²⁴MTA Restructuring Plan, May 15, 1998, p. 51.

¹²⁵The Full Funding Grant Agreement (FFGA) for the Red Line MOS-2 (Wilshire and Vermont Hollywood Corridors) had a projected cost of \$1.45 billion. The federal commitment amounted to \$667 million in Section 5309 (formerly Section 3) New Starts funds. Local and state funds were \$779 million. As of 1998, estimated costs were \$1.6 billion. The federal share, including extraordinary costs, was \$719.1 million. All federal funds had been drawn down by this time. The project was 93% complete, the remaining balance of \$354 million was covered by Prop A 35% Transit bond proceeds and City of Los Angeles funds (\$8.5 million).

Under the revised FFGA for the North Hollywood segment of MOS-3, the maximum amount of Section 5309 funds for the project was \$681 million, of which \$471.2 million had been appropriated thru FY 1998, leaving a balance of \$209 million to be paid out over the period FY 1999-2002. In addition, there were \$188 million in federal formula funding. The balance between the budgeted cost to complete (\$743.3 million, including a \$58 million reserve) and available funds (\$821.9 million) would be transferred to the Rail Capital Account.

revenues from either Prop A or Prop C sources, however, there remained shortfalls of \$377 million in bus capital projects and \$71 in rail capital projects. Another \$47 million would have to be found for various other projects, leaving a total shortfall of \$496 million (see Table 8.10). Bus capital projects included bus maintenance, overhaul and rehabilitation, constructing a new CNG fueling facility, non-revenue vehicles and communications support. Funding sources included ISTEA Section 9 Capital funds (\$121 million), Prop C 40% Discretionary bond proceeds, state TDA article 4 monies, and Air Quality Vehicle Registration funds. Rail capital spending covers similar items related to rail facilities and vehicles, and including right-of-way and track maintenance. Funding comes from ISTEA Section 3 Rail Modernization, the State STIP, and local sales taxes. The MTA management looked to new federal funds in the ISTEA reauthorization, fare increases, and additional borrowing to close the nearly one-half billion dollar gap.

The Restructuring Plan contained no specific funds to implement the settlement but simply assumed that the MTA's planned bus acquisition and improvement programs complied with the Consent Decree. The MTA has estimated that it would cost about \$550 million through 2004 to purchase 1,313 new buses to satisfy the decree, paid for mostly by the federal government. The Plaintiffs placed the figure closer to \$1 billion.¹²⁶

¹²⁶The BRU called for 1202 buses to expand service and 1700 buses to replace the aging fleet by FY 2002-03. This is approximately 1,453 buses more than the MTA's original plan. In part, the difference reflects the MTA's plan to adopt a fifteen year bus replacement cycle and to keep some buses in service up to 18 years, well beyond the 12 years or 500,000 mile industry replacement standard. The BRU's estimated total
(continued ...)

The Consent Decree required the MTA to add 51 new buses by December 31, 1996, another 51 by June 30, 1997. In addition, it was to implement a pilot project using 50 additional buses to improve access for transit dependents to employment, educational and health care opportunities. While the MTA eventually supplied these buses, in some cases it was accomplished by deferring planned retirement of older buses. The MTA also estimated that another 81 buses would be needed to meet the target load factors in the Consent Decree. The planned bus acquisition was expected to cover this need, however, the BRU was already objecting to the MTA bus plan as inadequate and made clear they would challenge it before the Special Master.

¹²⁶(...continued)

cost (capital and operating) was \$1.555 million. Bus Riders Union (BRU), A Presentation to the Los Angeles County Metropolitan Transportation Authority (MTA) Board of Directors on the Requirements of the Consent Decree, September 8, 1997.

Table 8.10. Capital Costs and Revenues by Project and Funding Source (\$ Millions)

Project	Cost	Revenues			Total	Balance
		Federal	State	Local		
Red Line Seg. 2	\$354.4	\$2.4	\$0.0	\$351.9	\$354.4	\$0.0
Red Line N.Hwd	\$742.3	\$336.8	\$279.7	\$205.4	\$821.9	\$0.0*
Rail Capital	\$288.9	\$46.0	\$59.1	\$33.0	\$138.2	(\$71.1)
Bus Acquisition	\$549.5	\$437.3	\$1.3	\$110.9	\$549.5	\$0.0
Bus Capital	\$578.0	\$121.0	\$14.5	\$65.2	\$200.7	(\$377.3)
Alameda Corridor	\$294.4	\$44.8	\$200.9	\$48.7	\$294.4	\$0.0
Other	\$133.0	\$13.2	\$11.2	\$61.7	\$86.1	(\$46.9)
Total	\$2,940.5	\$1,001.7 41.0%	\$566.8 23.2%	\$876.8 35.8%	\$2,445.3 100%	(\$495.2)

* Balance of \$79.6 transferred to Rail Capital Account

Source: MTA Restructuring Plan, Ch. V, p. 54.

Operating Costs

MTA's operating costs consist of bus and rail operations paid out of the Enterprise Fund, and debt service. Debt service is normally considered in accounting practice as a capital expense tied to the particular project, but the MTA typically tracked it as an operating expense since it was paid out of fares and tax revenues. The MTA generally capitalized the first two years of interest on a bond issue (by increasing the size of the bond issue and using the extra borrowed proceeds for interest payments) which resulted in *de facto* debt financing of operating costs, a practice highly criticized by

outside auditors.¹²⁷ For budgeting purposes, debt service was treated as balanced over the plan period, paid almost entirely out of Prop A and Prop C tax proceeds.

The Restructuring Plan estimated a bus operating budget deficit of \$540 million and a rail operating budget deficit of \$104 million over the FY 1998-2004 period (see Table 8.11). The projected bus operating costs of \$4.9 billion included costs to comply with the Consent Decree. Note that the only recently revised 1997 Long Range Plan Update had forecast declining deficits in bus operations (see Table 9.4 above) while the Restructuring Plan showed steadily increasing shortfalls over the same period. The MTA believed these deficits could be reduced to \$362 million with already identified solutions (including an *immediate* fare increase), and that they would be able to eventually lower the amount to \$189 million with other cost cutting measures.

¹²⁷Los Angeles Mayor's Office, Review of the MTA's Budget & Financial Planning, August 19, 1997, p. 8.

**Table 8.11. Operating Costs and Revenues by Project and Funding Source
(\$ Millions)**

Item	Cost	Revenues			Total	Balance
		Federal	State	Local		
Bus Operations	\$4,902.5	\$105.5	\$74.0	\$4,183.4	\$4,362.9	(\$539.6)
Rail Operations	\$904.7	\$16.9	\$90.0	\$694.2	\$801.1	(\$103.6)
Debt Service	\$2,334.2	\$75.2	\$0.0	\$2,259.0	\$2,334.2	(\$0.0)
Total	\$8,141.4	\$197.6	\$164.0	\$7,136.6	\$7,498.2	(\$643.1)

Source: MTA Restructuring Plan, Ch. V, p. 58.

GAO Review

Federal approval of the Restructuring Plan required a review by the Congressional General Accounting Office (GAO).¹²⁸ Beyond those shortfalls already acknowledged in the plan (see Table 8.12), the mandated GAO audit identified \$325 million in potential additional costs or reduced revenues.¹²⁹ If these were not addressed, the report warned, bus service might have to be reduced some 10 to 15 percent and

¹²⁸The office is now known as the Government Accountability Office.

¹²⁹The Restructuring Plan assumed that the MTA would raise bus (\$179 M) and rail (\$22 M) cash fares following November 1998 in accordance with the Consent Decree. To date, fares have not been increased. In addition, the Plan did not take into account the MTA Board decision to buy 50 additional buses (\$19 M), the risk that Red Line surpluses might be reduced by construction cost increases (\$80 M), and that state reserve funds might not be available for rail capital costs (\$25 M).

maintenance might have to be severely cut back.¹³⁰ It also cautioned that the BRU was preparing to challenge the plan as not complying with the Consent Decree and that future rulings by the Special Master could increase the cost of the bus expansion program, forcing the MTA to reallocate funds from other programs. The GAO concluded that the MTA had been working to identify additional cost savings and anticipated receiving about \$310 million through 2003 in transit funds under TEA-21 and another \$300 million in CMAQ funds. Based largely on the representations of CEO Burke and Mayor Riordan that the MTA was putting its financial house in order, the FTA finally accepted the Restructuring Plan and Congress agreed to release about \$62 million in rail transit funds to the MTA and \$31 million for bus purchases. FTA Chief Linton warned, however, that it was uncertain whether the MTA would be able to comply with the Consent Decree and urged both sides to establish clear milestones.¹³¹ Congressional action was facilitated by a political arrangement between Reps. Julian Dixon (D-Los Angeles) and Estaban Torres (D-Pico Rivera) who agreed that subway funding for the Red Line could resume with assurances that alternatives to the Eastside and Mid-City extensions would be considered.¹³²

¹³⁰United States General Accounting Office, *Surface Infrastructure: Review of Los Angeles County Metropolitan Transportation Authority's Restructuring Plan*, July 9, 1998.

¹³¹*Los Angeles Times*, U.S. Agency Approves MTA Recovery Plan, July 3, 1998, A1.

¹³²*Los Angeles Times*, House Panel Urges \$62 Million for Subway, July 17, 1998, B-1. The House appropriations bill actually included only \$38 million in new subway funding, as \$24 million was left over from the previous year's appropriation for the suspended Eastside extension. The bill did, however, include an additional \$6 million for buses over the \$25 million previously requested and \$8 million to study the rail extension alternatives. *Los Angeles Times*, MTA Raises Curtain on Movie Glitz, September 1, 1998, B1.

Table 8.12. Summary of Projected MTA Capital and Operating Shortfalls (000s)

Program	Total Needs FY 98-04	Shortfalls
Bus capital	\$578	\$377
Bus operating	\$4,903	\$540
Rail capital	\$289	\$71
Rail operating	\$905	\$104
Administrative	\$133	\$47
Total	\$6,808	\$1,139

Source: GAO, Review of Los Angeles County Metropolitan Transportation Authority s (MTA) Restructuring Plan, June 16, 1998, p. 26.

Demobilized Projects

The Restructuring Plan provided for the completion of only the Red Line MOS-2 project and the MOS-3 North Hollywood extension, halting work on the Eastside, Mid-City and Pasadena projects. The Wilshire to Western Red Line extension opened July 13, 1996, and the Hollywood extension opened June 12, 1999, six months behind schedule.¹³³ Ridership is currently 121,000 daily, well below original projections. Phase 2 of the Red Line was completed at a cost of 1.74 billion, or 17 percent over the original budget. The total cost of the North Hollywood extension, which opened June 24, 2000, was roughly

¹³³Segment Two was delayed due to contract disputes, flood damage and other construction problems. The total cost of Segment Two was \$1.74 billion. Federal funds accounted for \$719 million, including \$667 million in New Starts funds. Final costs could increase significantly due to litigation surrounding damages to local businesses caused by ground subsidence from the project in the Hollywood area.

\$1.34 billion, about \$31 million over budget. State funds to finish the project were made dependent on completing a study on improving transportation to areas that were to be served by the suspended Red Line Eastside and Mid-City extensions. As already noted, the Restructuring Plan demobilized these and the Pasadena Rail project. Remobilizing those projects would require FTA approval of a financially constrained plan demonstrating that resumption would not interfere with the MTA's obligations to complete the North Hollywood rail project and comply with the Consent Decree. The Board indicated its strong desire to resume these projects as soon as feasible.¹³⁴

In the litigation and publically, the BRU frequently criticized the Pasadena Line as a project that should be delayed or even halted in order to provide funds for bus improvements. Recall that when the MTA Board voted to increase fares to close an alleged \$126 million gap, shortly thereafter it also voted to spend roughly the same amount of money on constructing the Pasadena project (see Chapter Seven). In a move designed to get construction of the stalled Pasadena Line back on track, the state legislature removed the MTA from responsibility for planning and constructing the Pasadena Line extension in September 1998.¹³⁵ State legislation created the Pasadena Metro Blue Line Construction Authority (PMBLCA) to oversee the project from Union Station to Sierra Madre Villa Boulevard and any eastward extension to the City of

¹³⁴MTA Board Minutes, January 14, 1998.

¹³⁵California Senate Bill 1847, Stats., Chapter 1021 (September 30, 1998). Added Chapter 6 (commencing with Section 132400) to Division 12.7 of the Public Utilities Code.

Claremont. The bill was introduced by State Senator Adam Schiff (D-21st) representing the Pasadena area, and co-sponsored by Senator Richard Polanco (D-22nd), a member of the Latino Legislative Caucus who represented East Los Angeles, with backing from then Assembly Speaker Antonio Villaraigosa. The MTA has one voting member on the five person Board of the new agency. Funds identified in the Restructuring Plan as programmed for the Pasadena Blue Line were transferred to the PMBLCA, but once the project was completed it was turned back over to the MTA to operate. The first section of what is now called the Gold Line, opened in 2002, at a cost of \$458 million.¹³⁶

The BRU charged that this legislation was simply a backhanded way to avoid having to shift funds from rail construction to satisfy the terms of the Consent Decree. Members of the BRU staged protests and disrupted meetings of the new rail authority, objecting to the transfer of some \$300 million in funds programmed in the Restructuring Plan for completion of the Pasadena Line from the MTA to the PMBLCA.¹³⁷ It should also be noted that although the Pasadena Line would connect wealthier communities with the downtown business district, the line could also potentially serve large numbers of minority residents.¹³⁸

¹³⁶The plans to connect the Pasadena Line to the Long Beach Blue Line through an underground tunnel has been abandoned, thus the name change. The MTA is currently in the process of extending the light rail Gold Line east of downtown, instead of constructing an underground extension of the Red Line subway as earlier proposed.

¹³⁷*Los Angeles Times*, Six Arrested as Protesters Disrupt Rail-Line Meeting, February 25, 1999.

¹³⁸Ridership on the Gold Line has been well below expectations.

Meanwhile, County Supervisor Zev Yaroslavsky began an effort to halt further local spending on subway construction. Describing his *MTA Reform and Accountability Act* as a “two by four” that will finally knock some sense into this out-of-control agency and take it back from the special interests, he pushed his plan to prohibit the use of any local tax revenues for any further subway construction beyond completion of the Red Line to North Hollywood (in the Supervisor’s own district). Bus and surface rail projects would not be affected. The plan also called for an independent audit of the agency and establishment of a citizens’ Advisory and Oversight Committee. With a political compromise seemingly in place to restore the Eastside extension, Latino organizations and rapid transit advocates joined to oppose Yaroslavsky’s initiative. It is important to note that politicians representing the East Los Angeles communities were not necessarily opposed to all new rail development, particularly since the Hollywood and San Fernando Valley areas had already received substantial benefits from rail investments.

A group composed of Mothers of East L.A. (an organization that fought a successful environmental justice battle against siting a prison and a toxic incinerator), United Neighborhoods Organization, and the MTA’s Eastside Residents Advisory Committee, together with the Sierra Club and the Surface Transportation Policy Project (STPP), argued that it was unfair to punish eastside residents for the MTA’s mismanagement since the proposal would adversely affect “older, transit-dependent,

densely populated, built-out communities such as East Los Angeles.¹³⁹ In the November 1998 election, though, county voters overwhelmingly approved Yaroslavsky's initiative prohibiting the expenditure of any more Prop A or C funds on tunneling operations, an action which placed the planned underground heavy rail Red Line extensions in jeopardy.

Joint Working Group

As the maneuvering over the MTA's financing and rail projects continued, the Plaintiffs and the MTA began the arduous task of implementing the Consent Decree. The purpose of the Joint Working Group (JWG) as set up by the Consent Decree was to develop and implement plans that meet the objectives of the settlement. The JWG will remain in existence for the duration of the Consent Decree. There is a four step process to guide negotiations and policy development by the JWG. First, members of the JWG attempt to work out policy in a cooperative fashion. If an impasse is reached, the matter is turned over to the parties' attorneys for resolution. The Consent Decree provides for a court-appointed Special Master to rule on disputes if the attorneys cannot arrive at an agreement. Finally, the decision of the Special Master can be appealed to the court if it is unacceptable to one or both parties.

¹³⁹Ticket to Ride, September/October 1998, Volume 2, Issue 6.

For example, about a year after the Consent Decree was finalized the MTA adopted a plan to cancel or reroute various late night and owl bus services as part of its Restructuring Plan to save \$2 million. Although such actions were not expressly prohibited by the Decree, the Special Master ruled that reductions in service for transit dependent riders that were not an integral part of an overall program of improving bus service were inconsistent with the overriding purpose of the Decree and ordered the MTA to adopt a plan to provide alternative replacement transportation service with some of the cost savings or else reinstate the previous service.¹⁴⁰ While disappointed with the specific decision, the MTA asserted that the ruling reaffirmed its authority to manage the transit system efficiently.¹⁴¹

No Seat, No Fare

By far the most serious conflict over implementing the Consent Decree, however, has revolved around the issue of bus overcrowding. Not long after the ink on the agreement was dry, the parties began to squabble over how to determine whether or not the MTA was meeting its obligations to achieve the 1.35 load factor target (LFT) by the end of 1997 as called for in the agreement. Despite the fact that it had originated the load

¹⁴⁰Memorandum Decision and Recommendations of the Special Master, Case no. 94-5936 TJH (MCx), February 24, 1998.

¹⁴¹MTA, Restructuring Plan, May 15, 1998, p. 120.

factor targets itself, the MTA has fought compliance with these standards tooth and nail from the very beginning. First, contrary to the express language of the agreement, the agency argued that compliance should actually be based on its *systemwide* performance rather than on individual lines. Next, it maintained that the LFT measurements should be based on fixed 20-minute periods each hour. The BRU insisted on measuring compliance on each and every route, using a sliding window that would measure load factors for *any* 20 minute period as specifically set forth in the Consent Decree.¹⁴² Since the parties could not resolve their differences, the matter was submitted to the Special Master who agreed with the Plaintiffs' interpretations.¹⁴³ His ruling meant that during any 20-minute weekday period in the peak direction of travel on each bus line, the *average* number of standing passengers on a standard 43-seat bus could not exceed 15.¹⁴⁴ Based on those standards, the BRU documented to the Special Master that the MTA had failed to comply with their promise to reduce overcrowding on many of its lines, using on ridership data collected through a point check monitoring program established by the parties. As part of this program, MTA staff and volunteers from the BRU conducted counts of bus passengers on a selected number of bus lines at specified times and reported their findings to the JWG. Faced with data from the point check program, the MTA eventually admitted that it had failed to attain the 1.35 load factor for 75 of its 79 bus lines subject to

¹⁴²Consent Decree, ¶ II.A.2.

¹⁴³Memorandum Decision and Order (July 15, 1998); Order Re Plaintiffs' Motion for Reconsideration of the Special Master (July 15, 1998); Order re Compliance Standards (Aug. 25, 1998)

¹⁴⁴The LFT was calculated as follows: (43 seated passengers +15 standees)/43 seats = 1.35

monitoring,¹⁴⁵ but argued that its failure was due to the unreasonable methods for measuring compliance imposed on it by the Special Master, which it contended produced onerous ridership standards that no bus operator anywhere could meet. In fact, running buses having more than 15 standees during rush hours is not at all uncommon in the industry.

The BRU began a "No Seat, No Fare" campaign urging bus riders to refuse to pay if they were forced to stand.¹⁴⁶ The Bus Riders Union demanded that the MTA agree to purchase more buses but despite the release of federal funds the Mayor refused to consider shifting any money from completion of the North Hollywood subway project as insisted on by the BRU.¹⁴⁷ MTA Chief Burke did, however, request that the Board purchase 2,095 new vehicles over a six year period, roughly 800 more than originally proposed in the Restructuring Plan, to comply with the court mandate. Though the plan provided for buying 1,200 buses by 2003, it fell short of the 1,600 demanded by the BRU.¹⁴⁸

Since the JWG could not reach agreement on a plan to remedy the identified

¹⁴⁵The parties agreed that some lightly patronized lines would be exempt.

¹⁴⁶*Los Angeles Times*, "Passenger Group Urges MTA to Buy More Buses," September 2, 1998.

¹⁴⁷*Los Angeles Times*, "Mayor Opposed Shifting Funds to Buy Buses," September 11, 1998, B1.

¹⁴⁸*Los Angeles Times*, "MTA Chief Calls for Purchase of New Buses," September 24, 1998, B1.

deficiencies, the matter was again directed to the Special Master.¹⁴⁹ The parties did agree that, about half of the time, failure to achieve the load factors was due to missing buses, that is, buses in the fleet that could not be put into service either because of mechanical problems mainly due to the age of the fleet or because a driver for the bus was not available. The MTA, however, took the position that most of the remaining exceedences were due mostly to poor schedule adherence (buses arriving too early or too late) while the Plaintiffs contended that they were almost entirely the result of insufficient capacity. Not surprisingly, the MTA argued that the solution would lay in better maintenance and its accelerated bus procurement program to replace aging or unreliable alternative fuel vehicles,¹⁵⁰ as well as improved scheduling of buses and drivers. The agency did propose, though, to purchase an additional 160 new buses within a year. Thirty of these buses would be to alleviate current overcrowding and the remainder would be used to help meet the higher 1.25 load factor target by June 2000.

The BRU insisted that nearly half of all violations were due to there not being enough buses even when the schedules were adhered to. To improve performance the BRU recommended buying a total of 553 new compressed natural gas (CNG) buses, hiring additional operators and mechanics, and expanding maintenance programs. They

¹⁴⁹In the meantime, work had been suspended on the Red Line Mid-City and Eastside Extensions as well as the Pasadena Blue Line, which made some funds available for bus improvements, though the MTA was reluctant to recommit these funds.

¹⁵⁰This program entailed buying 2,095 buses at a cost of \$817.3 million to reduce the average age of the fleet to 6 years. Some 538 buses were to be delivered by June 2000, and 1,237 over a three year period (to FY 03).

also wanted the MTA to immediately lease 348 additional buses until the replacements arrived.

The condition of the bus fleet was indeed a serious problem. One study found that nearly half of the MTA's buses were over 12 years old, the federally recommended replacement age.¹⁵¹ Worse, of a total of 2,103 buses in the active fleet, only 1,666 were operational.¹⁵² That same study concluded that over the previous ten years the agency was only able to put an adequate number of buses in service during peak periods about 60 percent of the time.¹⁵³ The MTA had, however, plans to add 1,485 buses by June 2000, when the next load factor target had to be met.¹⁵⁴ The Special Master agreed that these actions would correct the problem of out of service vehicles, but that additional vehicles would have to be purchased in order to deal with the problem of insufficient capacity. Calling the bus fleet, simply too small for the ridership demands placed on it, the Special Master ordered the MTA to add 297 buses to its fleet to deal with the massive violations to that date and an additional 135 buses to meet the June 2000 1.25 LFT

¹⁵¹The FTA recommends replacing buses when they reach 12 years in service, or 500,000 miles, whichever comes first. This standard, which has long been popular with bus operators and manufacturers, is in fact based on only a single study of the effect of rust on buses in Buffalo, N.Y. Several later studies have suggested that in areas that do not salt the streets in winter, buses can last up to 20 years with regular engine maintenance and periodic interior refurbishing.

¹⁵²Mundle & Associates, Review of CACMTA's Bus Operating Plans, Ex. V-2, V-5 and V-6 (March 1998) [hereinafter Mundle Review.]. The entire fleet, including spares, consisted of 2,354. This represented a decrease from 2,957 buses in 1988, of which 2,554 were active and 1,998 operational. Id. at V-2.

¹⁵³Mundle Review, p. vii.

¹⁵⁴This consisted of 538 new buses under the accelerated purchase plan, 333 unreliable ethanol buses being converted to diesel fuel, 594 repaired CNG buses, and 20 used low floor buses.

standard.¹⁵⁵ He also ordered the MTA to lease 248 additional buses before the end of the year in order to remedy the existing violations as soon as possible until the new buses arrived. In addition, he ordered the MTA to purchase the 102 additional buses specifically called for in the Consent Decree by June 30, 2002, the date by which the MTA was required to meet the 1.2 LFT. The MTA was given some flexibility to schedule the new buses, provided it did not significantly reduce service to the transit-dependent.¹⁵⁶

Challenging the Special Master's Orders

Outside political pressure was put on the agency to adhere to the Consent Decree and the Special Master's rulings. For example, State Senator Tom Hayden introduced legislation to prohibit the MTA from spending any funds until the agency identified a guaranteed and sufficient source of funding to comply with the settlement. Though never enacted into law, the proposed bill's finding declared that the MTA's extensive pattern

¹⁵⁵This equals 422 buses (including 71 spares), less the 53 the MTA already scheduled for purchase, for a net of 430 new buses.

¹⁵⁶Memorandum Decision and Order In Re Load Factor Compliance, Case CV94-5936 TJH (MCx) (March 6, 1999), p. 54, ¶V. 6. Memorandum Decision & Order RE: Motion for Clarification and Modification, Case CV 94-5936 TJH (MCx) (May 14, 1999), p. 27, ¶ VII. The MTA also was directed to file Quarterly Reports with the Special Master detailing: (1) cancelled and late runs for each month by amount, reason, bus series, and line; (2) equipment failures in-service by amount, reason, bus service and line; (3) missing operators by reason per month; (4) point check date matched to scheduled times and bus runs, with analysis of each violation; and (5) a mapping of load factor violations for each line over time. March 6 Order, p. 56, ¶V. 8 (c).

of *de facto* discrimination against low income and minority residents, is morally unjustified and should not be subsidized with state tax monies. Compliance with the Consent Decree, would, in the terms of the legislation bring closure and justice to this prolonged conflict.¹⁵⁷

Nevertheless, the MTA asked the Special Master to reconsider his order, and directly challenged his authority to issue a remedial plan, arguing that the MTA had sole discretion under the Consent Decree to decide how to meet the load factor targets. While arguing that the agency had *initial* discretion as to how to meet the targets, having failed to do so, the Special Master ruled, he had to power resolve the question once the MTA and BRU could not reach an agreement on how to proceed. The MTA argued that the Special Master should defer to the agency's own analysis and conclusions, in light of the potential fiscal impact the order would have. It also claimed that the targets were merely goals and not an enforceable ceiling and that substantial compliance on a system-wide basis, as opposed to line-by-line compliance, was all that was needed. The Special Master rejected all these contentions. Indeed, in response to the MTA's assertions that it might have to tap into funds already committed to other projects the Special Master admonished the agency that:

As a practical and contractual matter, the allocation of sufficient resources

¹⁵⁷California Senate Bill 1276, as amended, May 11, 1999.

to halt the deterioration of bus service to the MTA's most frequent daily customers—the transit-dependent of Los Angeles—should take precedence over the funding of new transit alternatives, even those designed to attract new transit patrons. This is what the Consent Decree requires.¹⁵⁸

Contending that it would cost the agency \$463 million to comply with the terms of the remedial plan prepared by the Special Master, the MTA challenged his order before Judge Hatter who not only affirmed the plan, but held that the MTA must immediately purchase the 248 additional buses to resolve its violations of the Consent Decree. In a stinging rebuke to the MTA's assertion that the court lacked the power to enforce the settlement, Hatter ruled that:

By the clear language of the Consent Decree, the MTA had the *initial* responsibility to devise and implement a plan to reduce bus overcrowding. Since the MTA failed to meet the obligations imposed by the Consent Decree, it is now up to the Special Master and the court—through the Court's equitable powers—to enforce the consent decree.¹⁵⁹

¹⁵⁸Memorandum Decision and Order Re: Motion for Clarification and Modification, Case CV94-5936 TJH (MCx), (May 14, 1999), p. 20.

¹⁵⁹L/CSC v. Los Angeles MTA, Memorandum Opinion and Order, Case CV94-5936 TJH (MCx), September 29, 1999 (emphasis in original).

The court did, however, order the Special Master to re-evaluate whether the MTA would likely be able to meet the more stringent 1.25 load factor by the June 30, 2000 deadline and to consider other possible solutions such as shifting or eliminating some bus lines. Still, Judge Hatter made clear that the Consent Decree unequivocally empowered the Special Master to resolve such disputes.

Believing the additional costs of compliance threatened to place an even greater financial burden on the MTA's already reduced rail program, the MTA Board voted to appeal that ruling to the Ninth Circuit Court of Appeals. In a two-to-one decision the Ninth Circuit appellate court upheld Judge Hatter's ruling, rejecting the MTA's claim that the court lacked the authority to uphold the Special Master's order.¹⁶⁰ The dispute eventually reached the U.S. Supreme Court which also refused to review Judge Hatter's order.¹⁶¹

Noting that the federal courts possess broad remedial powers, and that consent decrees must be treated like other judicial decrees, and with deference to the trial court's interpretation based on its experience with the case, the Court of Appeals held that the

¹⁶⁰Labor/Community Strategy Center, et al., v. Los Angeles Metropolitan Transportation Authority, 263 F.3d 1041 (9th Cir. 2001). The panel unanimously denied the MTA's petition for rehearing and Court of Appeals *en banc* also refused to rehear the appeal. Order, October 16, 2001.

¹⁶¹Labor/Community Strategy Center, et al., v. Los Angeles Metropolitan Transportation Authority, certiorari denied 535 U.S. 951, 122 S.Ct. 1349, 152 L.Ed.2d 252, 2002 U.S. LEXIS 1897 (March 18, 2002).

Special Master's remedial plan was proper. The Consent Decree, the appellate court held, set out a precise mathematical method to measure bus overcrowding and required the MTA to meet those targets in a timely manner, not merely to use its best efforts. Responding to the MTA's argument that it could not afford to comply with the order, the court noted that the Special Master found that the MTA had failed to show that it had exhausted all available sources of bus-eligible funds. Finally, the Court of Appeals confirmed that the Consent Decree gave the Special Master and Judge Hatter the authority to resolve disputes in the JWG.¹⁶²

A slightly more difficult question involved whether the order would unduly insert the court into the MTA's management. In addition, the MTA claimed that it would have to violate state and federal environmental laws to immediately add buses to its fleet without prior evaluation. The court rejected the MTA's federalism concerns, since the agency had voluntarily agreed to the settlement, explaining that the MTA could easily have avoided the order had it met the load factor targets or submitted an adequate remedial plan. The appellate panel also concluded that the MTA would not have to violate any laws in order to comply, though it might risk losing some funding. The dissenting judge did not question the Special Master's findings, but was concerned that the order might be too intrusive. Even if the MTA had agreed to the Consent Decree, she opined, it had not necessarily agreed to any and all remedial orders the district court

¹⁶²Labor/Community Strategy Center, et al., v. Los Angeles Metropolitan Transportation Authority, 263 F.3d 1041.

might enter, noting that the federal courts must be careful not to interfere with a governmental entity's legitimate activities anymore than necessary to remedy the violation. She also took some issue with the Special Master's apparent belief that the MTA would be able to waive environmental reviews since the additional buses would have a positive effect on traffic congestion, given that the additional buses were intended to reduce overcrowding among existing riders, not to lure automobile users onto public transportation:

[T]he remedy may very well require a shift in resources from electric light-rail to gas-powered buses. Therefore, the special master had no basis for assuming that the various state and federal approvals would be forthcoming . . . The only record evidence was that the required approvals usually take six months to obtain. Moreover, neither the special master nor the district court addressed MTA's statutory comment obligations.¹⁶³

She also gave more weight to the fact that the MTA might lose substantial amounts of funds should it not comply with the statutory requirements, which in turn might make it harder to improve bus service countywide. She did not view the Consent Decree as having obligated the MTA to have to choose to forego those funding sources in order to comply. In her view, federal policy to support local transportation projects, strings

¹⁶³Labor/Community Strategy Center v. Los Angeles Metropolitan Transportation Authority, 263 F.3d 1041, 1054 (9th Cir. 2001) (J. Holcomb, dissenting).

attached, should have militated against the court's assertion of its authority. Echoing the MTA's position that its rail program responds to the public will, she writes:

As the Supreme court has noted, under cooperative funding programs, [i]f a State's citizens view federal policy as sufficiently contrary to local interest, they may elect to decline a federal grant. But, where a federal court makes the choice, elected state officials cannot regulate in accordance with the views of the local electorate. Accountability thus is diminished as the local officials bear the brunt of public disapproval while the federal court that made the decision remains insulated. These concerns are particularly acute in the instant case because this suit arose against the backdrop of a dispute between citizens who wanted MTA to expand rail transportation and those who wanted more buses. By ordering enormous expenditures on buses while, at the same time, putting at risk a significant portion of MTA's funding, the district court added fuel to the fire, but hampered MTA's ability to respond.¹⁶⁴

Clearly though, from a planning perspective, if not necessarily a legal one, deferring to federal policy simply begs the question whether the choice to build more rail lines at the expense of transit dependents unfairly burdens poor and minority bus riders, despite

¹⁶⁴L/CSC v. Los Angeles MTA, 263 F.3d at 1054 (citations omitted).

federal constitutional and statutory guarantees. That was precisely the issue the lawsuit and the Consent Decree were meant to resolve, by making improving bus service the MTA's first priority. While the clash between the MTA and the BRU has certainly been political, there has been no substantive evidence presented that the agency has jeopardized any funding as a result of the decree. On the other hand, it has continued resist federal court authority to enforce compliance.

2001 Long Range Transportation Plan

In the most recent iteration of its Long Range Plan, the MTA continues to stress rail capital projects, though it also calls for continued expansion and upgrading of bus service. The 2001 LRP, like its predecessors, projects declining highway speeds in the County, based on SGAG forecasts that the population will increase by 35 percent or 3.5 million people by 2025, from 9.6 million to 13.1 million. Also like the earlier plans, it establishes a Baseline, consisting of already constructed or approved projects, a Constrained Plan representing additional projects that could reasonably be funded with anticipated revenues, and a Strategic Plan, that would improve traffic flows but also require additional resources to realize. The total cost of the Recommended Plan (Baseline plus Constrained Plan projects) is \$106 billion¹⁶⁵ (see Table 8.13). The

¹⁶⁵Equivalent to \$113 billion in 2004 dollars.

Strategic Plan calls for finding and spending an additional \$20 billion.

Table 8.13. 2001 Long Range Plan Summary (Billions)

	Baseline	Constrained Plan	Recommended Plan Total	Strategic Plan
Public Transportation	\$81,551.3	\$5,526.5	\$87,077.8	\$7,862.3
Highways	9,715.3	1,995.5	11,710.8	9,637.9
Arterials	1,831.7	1,746.2	3,577.9	2,448.1
Goods Movement	1,104.3	724.7	1,829.0	1,046.2
Bike ways	233.7	320.0	553.7	649.5
Pedestrian Space	269.8	391.3	661.1	649.7
TDM & Rideshare	143.4	495.8	639.2	779.8
Total	\$94,849.5	\$11,200.0	\$106,049.5	\$19,919.3

Source: MTA 2001 Long Range Transportation Plan.

The Baseline capital projects consisted of, in addition to a 3,300-vehicle bus fleet, fixed guideway projects in the San Fernando Valley and Mid-Cities area, and two Rapid Bus demonstration lines, the following rail improvements:

Red Line (to North Hollywood)

Pasadena Line (to Sierra Madre Villa)

Eastside Gold Line (to Atlantic Blvd.)

Metrolink (3 new stations).

An additional \$5.5 billion would be spent on increasing the bus fleet to 4,400 (more than double the current fleet), 22 additional Rapid Bus lines, and:

Exposition Light Rail Corridor (Crenshaw to Santa Monica)

Crenshaw Corridor (Wilshire to Green Line/LAX)

San Fernando Valley North-South Corridor (Sylmar to Ventura Blvd.)

Green Line Extension to LAX

Metrolink Expansion.

While the Recommended Plan represents a much reduced planning scope compared to the original Prop A rail system, the Strategic Plan, if funded, would revive a host of now dormant rail transit projects, including:

Red Line (Wilshire/Western to Mid-Cities)

Eastside Line (Atlantic to Norwalk/Whittier)

Pasadena Line (Sierra Madre Villa to Claremont)

Vermont Corridor (Vermont Green Line to Hollywood Blvd.)

Burbank/Glendale Corridor (Union Station to Burbank Transit Station)

Green Line (Marine/Redondo to South Bay Galleria)

Additional Metrolink Expansion.

Local, state, and federal revenues were projected to be adequate to fund the recommended plan (see Table 8.14). Of this, \$94.8 billion is already committed to bus and rail capital and operations, highway programs and local returns, leaving \$11.2 billion available for new projects.

Table 8.14. 2001 MTA Long Range Plan Revenue Sources (\$ Billions)

	Local Revenues	State Revenues	Federal Revenues	Total Revenues	
Bus Capital & Operations				\$44.5	42%
Rail Capital & Operations				\$14.5	14%
Highway				\$13.3	12%
Local Return				\$10.3	10%
Other				\$12.2	11%
Subtotal				\$94.8	89%
Uncommitted Funds				\$11.2	11%
Total	\$77.9 73%	\$14.5 14%	\$13.6 13%	106.0 100%	100.0%

Source: MTA 2001 Long Range Transportation Plan.

Again, the alternative plans were evaluated on their ability to improve mobility,

air quality, and access, as in the earlier versions.¹⁶⁶ Six quantitative criteria were used in the assessment: (1) mode share, (2) mobility index, (3) air quality index, (4) cost effectiveness, (5) transit accessibility (Title VI) index, and (6) impact on transit dependent and minority communities (see Text Box). Little improvement in mobility is expected even with additional transportation improvements. Under either the Constrained Plan or the Strategic Plan, transit use is expected to climb to nearly 15 percent, compared to the 1998 Base Year figure of 8.5 percent, or roughly 10 percent under 2025 Baseline conditions. Even so, morning peak hour highway speeds are projected to fall significantly from 31.6 mph in 1998 to 16.1 mph in 2025, only slightly better than the estimated 14.7 mph should only the Baseline projects be undertaken. On the other hand, substantial improvements in air quality are expected regardless of plan chosen, due primarily to increasing transit ridership, carpooling, and lower emission vehicles. Admitting that it will not be possible to build our way out of our transportation problems, the Plan does endorse a Smart Growth Alternative that would presumably lead to a one third reduction in air pollution over either the Recommended or Strategic Plans, maintenance of existing morning peak highway speeds, and striking improvements in transit ridership to 29.8 percent. The Smart Growth plan is based on lower population growth (2.7 million)

¹⁶⁶These represent the three stated goals of the plan. Mobility is defined in terms of improving traffic flow, relieving congestion, and enabling residents, workers, and visitors to travel quickly throughout the county. Air Quality improvements are to be achieved through reducing mobile source emissions, increasing the number and percentage of people using public transit or carpooling and improving the efficiency of the transportation system. Access improvements are intended to enable residents workers to gain access to the many economic, educational, social, medical, cultural, recreational, and governmental opportunities and resources in the county. The goals are to be met through four key strategies: (1) maintaining the existing transportation system, (2) maximizing system efficiency, (3) increasing system capacity, and (4) managing demand. 2001 Long Range Transportation Plan, Executive Summary, p. 6.

consistent with revised SCAG projections though more concentrated in urban areas, and increased revenues from gas taxes, emission fees, congestion pricing, or other sources.

In addition to these criteria, the Plan also considers the impact on the transit dependent population, as required by the Consent Decree.¹⁶⁷ The MTA takes credit for maintaining low fares, reducing overcrowding by 17 percent and claims to have added 273 buses by 1999 to achieve the 1.25 LFT standard six months early. It also touts its accelerated bus procurement plan to reduce the average age of the fleet to about 5 years by 2004. Finally, the MTA touts its Pilot Program to increase access to schools, employment and medical facilities for transit dependents, which resulted in seven new lines being added, as well as its pledge to develop a Five Year Plan of bus system improvements to improve mobility.¹⁶⁸ According to the agency's forecasts, the Long Range Plan will increase from 44.6 percent to 56.2 percent the percent of transit dependents who will be able to arrive at their work place within one hour in the peak period, with similar gains for minority groups in general. Several of these claims have

¹⁶⁷Consent Decree, ¶ I.G. (Future MTA long-range plans, major capital projects, and annual budgets shall include a section devoted to the means by which the needs of Transit-dependent residents are being and shall be met.)

¹⁶⁸Consent Decree, ¶ I.C.1 (MTA shall work with the JWG to develop and implement a plan to provide additional bus service that is designed to improve access by the transit-dependent community to Los Angeles County-wide educational, employment, and health care centers, as well as enhancing personal mobility throughout the region..); id, ¶ I.C.2 (After consultation with the JWG, MTA will initiate as expeditiously as possible a pilot project to provide a minimum of fifty additional buses . . . during the next two years to demonstrate how this program can meet the needs of transit-dependent areas for access to jobs, education and health services. The JWG will evaluate the pilot project and develop a plan for additional bus and other transit services over the following five years, which shall include a projection of the number of buses and other vehicles needed to provide such services.)

been questioned, though.

2001 LONG RANGE TRANSPORTATION PLAN
EVALUATION CRITERIA

MODE SHARE - measures the proportion of person-trips in drive-alone, carpool, and transit categories

MOBILITY INDEX - measures person flow in the transportation system

AIR QUALITY INDEX - measures the total mobile source pollutant emissions

COST EFFECTIVENESS - measures the cost per hour of travel time savings

TRANSIT ACCESSIBILITY INDEX - measures the percentage of population which can arrive at their work place within one hour via transit

IMPACT ON TRANSIT DEPENDENT AND MINORITY COMMUNITIES - examines mobility and accessibility impact on areas with high transit dependent and minority populations

Source: 2001 Long Range Transportation Plan, Executive Summary, p. 10.

Enforcing the Consent Decree

Despite claims to the contrary in its 2001 Long Range Plan, the MTA in fact failed to meet the 1.25 load factor target in June 2000 on 75 non-exempt bus lines during weekday peak hours, or the 1.20 LFT in June 30, 2002 on 72 lines.¹⁶⁹ And once again, the matter went before the Special Master. In the interim, the entire compliance process

¹⁶⁹A total of 58 lines had one or more exceedences above the 1.35 LFT; 41 lines had exceedences above the 1.5 LFT; 23 lines violated the 1.6 LFT; and 14 lines missed the 1.7 LFT at least once during the July 2003-September 2003 quarter. Supplement to Memorandum Decision II and Final Order on Remedial Service Plan to Meet 1.25 and 1.20 Load Factor Target Requirements, January 15, 2004, p.3.

had become rather more sophisticated. The JWG concluded that 331 expansion service units or ESUs would be needed in the A.M. period to achieve compliance and 453 ESUs during the P.M. periods.¹⁷⁰ An ESU is the equivalent of an additional trip by a 40-seat bus¹⁷¹ during a sliding 20-minute window period. Although the JWG agreed that the MTA would need to acquire an additional 185 buses and provide 425,500 more revenue service hours to achieve these, the MTA submitted a plan contending that only 245 weekday A.M. peak ESUs and 336 weekday P.M. ESU or 125 buses and 287,500 revenue hours were needed. The MTA further proposed that the equivalent of 70 buses could be provided through increases in in-service productivity utilizing HASTUS scheduling software. The BRU submitted its own plan, calling for purchasing the full complement of buses, to be funded by cuts in other transportation programs.

¹⁷⁰See Special Master's Memorandum Decision and Order on Remedial Methodology; Meeting the 1.25 and 1.20 Load Factor Targets, December 2002, at 52-55. The ESU concept was developed as a more refined methodology, based on additional bus trips to address exceedences in specific 20-minute sliding windows, to give the MTA more flexibility in providing appropriate additional capacity on particular bus lines.

¹⁷¹The MTA is not limited to purchasing 40-seat buses, provided an equivalent number of seats are added to the fleet. *L/CSC v. Los Angeles MTA*, Case CV94-5936 TJH (MCx), Memorandum Decision II and Final Order on Remedial Service Plan to Meet 1.25 and 1.20 Load Factor Target Requirements, January 12, 2004 [hereinafter *Memorandum Decision II*], p.5.

Ruling on Load Factor Requirements

The Special Master ruled that the MTA should amend its remedial plan to include quantifiable objectives and specific remedies to address exceedences due to missed trips, and to provide the additional capacity originally recommended by the JWG. Another issue was whether the MTA could meet the load factor targets by shifting buses from lightly patronized lines to relieve crowding on other lines, something specifically addressed in Judge Hatter's order. The MTA had planned to reallocate 30 buses and 70,000 revenue hours from routes with low ridership to overcrowded, high-demand bus lines which the Special Master agreed fit within the context of an overall Remedial Plan designed to improve bus service through a reduction in overcrowding.¹⁷² However, the JWG was also specifically ordered to study the impact of this and the MTA's additional proposed service reductions on transit-dependent riders and report back to the Special Master as to (1) whether the service modifications were independently justified on the basis of objective efficiency and resource allocation criteria, (2) whether any reductions in service adversely affected transit dependents, and (3) whether the overall effect was to improve bus service systemwide.

The Special Master's final order did allow the MTA to take credit for the equivalent of 30 buses based on the proposed service changes intended to minimize or

¹⁷²Memorandum Decision and Proposed Order on Remedial Service Plan to Meet 1.25 and 1.20 Load Factor Target Requirements, September 5, 2003, at 53-54.

eliminate unproductive and duplicative services,¹⁷³ and another 10 buses from improvements in scheduling, but it also required that the agency purchase 145 new 40-seat buses to be placed in service by June 2005, with a total of 370,185 additional annual *in-service* hours in order to relieve the unacceptably high levels of bus overcrowding.¹⁷⁴ The order also required the MTA to analyze its off-peak load factor exceedences and provide sufficient service expansion to remedy the deficiencies,¹⁷⁵ and to hire additional drivers, mechanics, and service attendants needed to meet all the additional service expansion requirements. The MTA was directed to purchase 381 new buses to replace overage buses during FY03-FY07.¹⁷⁶ The JWG was ordered to evaluate the criteria in the MTA's Transit Service Policy and their impact on transit dependents.¹⁷⁷ The MTA was also directed to inform the Special Master exactly how it would pay for all the additional expansion and replacement buses, and other costs of complying with the Consent Decree over the FY05-FY07 period, including all bus eligible funds

¹⁷³Memorandum Decision II, p. 17.

¹⁷⁴Memorandum Decision II, Final Order, ¶2(c) & (d). The switch from revenue hours to *in-service* hours reflected the fact that the MTA's HASTUS scheduling software was effective in increasing the amount of time the buses were actually serving passengers by reducing non-productive layover and deadhead time. Using the software, *in-service* hours were approximately 84% of revenue hours. Memorandum Decision II, pp. 59-73.

¹⁷⁵Memorandum Decision II, Final Order, ¶2(e). As the Special Master notes, since peak requirements are greater than off-peak requirements, this would not necessitate the purchase of any additional buses, but would require an increase in bus *in-service* hours during off-peak periods. Providing service during off-peak periods is, in fact, less costly, than during peak periods. Taylor, Garrett, and Iseki (2001).

¹⁷⁶Memorandum Decision II, Final Order, ¶4.

¹⁷⁷Memorandum Decision II, Final Order, ¶5.

reprogrammed from other MTA programs to meet the load factor targets.¹⁷⁸

Finally, the MTA was also directed to regularly review the MTA's Quarterly Reports and recommend any actions needed to meet and maintain the 1.20 LFT that should be implemented in the MTA's regular six-month service changes.¹⁷⁹

One issue that the Special Master specifically directed his attention to was the BRU's contention that the MTA was cutting bus service system-wide to meet its Consent Decree obligations, rather than re-programming bus-eligible funds from other transportation programs. The Special Master clarified the MTA's obligation, once it missed the load factor targets, to use sufficient unobligated bus-eligible funds to meet the targets as soon as possible, and reiterated that it could not rely on reallocating funds within the existing bus budget to do so.¹⁸⁰ Since the MTA indicated that it had available funds to meet its obligations, the Special Master exercised some of his characteristic restraint and did not mandate that MTA draw upon any specific outside sources of funds, though he did direct the MTA to identify such funds.

¹⁷⁸Memorandum Decision II, Final Order, ¶6.

¹⁷⁹Memorandum Decision II, Final Order, ¶7.

¹⁸⁰Some funds already in the bus budget could be used to fund load factor remedies, provided (1) it could be independently justified on objective efficiency and resource allocation criteria and shown to improve the overall bus to benefit transit-dependents, and (2) any service reductions would not adversely affect transit dependents. Memorandum Decision II, pp. 12-13.

Noting that the MTA faced possible reductions in federal, state and local tax revenues, the Special Master nevertheless reminded the agency of its obligations under the Consent Decree:

During times of severe fiscal constraints, it is especially critical that the MTA fulfill its Consent Decree mandates and ensure that the bus riders who depend on public transit for access to employment, education, health care and other activities are not the victims of budget cuts. Indeed, the Consent Decree arose out of a situation in which the plaintiff bus rider class alleged that the MTA had diverted resources from the maintenance of a quality bus system in order to develop rail and other new projects. To the extent that fiscal constraints require reduction in overall capital and operating expenditures, the MTA's *first obligation* must be to maintain and improve the quality of service to the vast majority of its riders who depend upon the bus system for their livelihoods. Only when those obligations are met can the MTA proceed with the development of other worthy new projects.¹⁸¹

The MTA had again sought to avoid the purchase of any new buses, maintaining that it should have discretion to add the required additional ESUs through improved scheduling

¹⁸¹Memorandum Decision II, p. 15 (emphasis in original).

using upgraded HASTUS software. Remarkably, it also sought to take credits for the additional transportation service provided by opening the Gold Line between downtown and Pasadena – the very project the Plaintiffs argued had siphoned funds away from the MTA’s bus service. The BRU countered that the Special Master should reject this latest in a long string of MTA attempts to avoid buying more buses and that the agency should be required to add both more buses and revenue hours, not just more bus *trips*. Although the Special Master agreed to allow the MTA the aforementioned 10 bus credit for scheduling improvements, he adamantly refused to allow the MTA substitute ridership on new *rail* projects for improvements in *bus* service, except as they result in overall improvements to the system and thus reductions in the level of overcrowding as objectively measured by the LFT standards. It was, after all, the allegation that the MTA was siphoning funds from the bus system, through fare increases, in order to feed the Pasadena Light Rail Line that triggered the BRU lawsuit in the first place.¹⁸² Significantly, he took the opportunity to address the larger issue implicit in the case:

The litigation that gave rise to the Consent Decree is sometimes misperceived as a battle between bus and rail, like the old range wars between the cowboys and the farmers. This is not the case, however. The MTA has determined, with the support of the taxpayer, that both bus and rail service have important roles to play in providing an integrated

¹⁸²BRU Reply at 9, quoted in Memorandum Decision II, p. 44.

transportation system. The purpose of the Consent Decree is to ensure that bus riders are treated fairly and that the quality of the bus service is improved, not diminished, as the MTA goes about the very expensive investment required to expand the rail system. . . . As long as the MTA meets its obligations to bus riders under the Consent Decree, there are no limits or constraints on the development and maintenance of an efficient rail system. The Consent Decree simply requires that the interests of the bus rider be central in the MTA's fiscal, strategic, and operational planning and that the development of a rail system not be accomplished to the detriment of the bus rider.¹⁸³

In light of the MTA's failure to meet the required performance standards despite previous attempts to improve scheduling, the Special Master refused to relieve the MTA from its obligation to add additional buses to its fleet, calling its plans to reduce overcrowding by shifting resources within the bus system akin to rearranging the deck chairs on a sinking ship. His reluctance to fully trust the MTA is hardly surprising, given the attitude of the agency's new management toward the Consent Decree. In a written declaration, the MTA's Director of Regional Planning maintained that the Consent Decree had diverted significant financial resources to questionable bus service expansions and would have detrimental impacts on the Regional Transportation system

¹⁸³Memorandum Decision II, p. 47.

in Los Angeles County for years to come. He added that while the MTA had incorporated these changes into its short-range planning, that they will have to be undone as soon as the Decree expires in early FY 2007.¹⁸⁴ Perhaps in response to this implicit threat to reverse some of their hard fought gains, the BRU has recently asked to have the Decree extended for another six years to match the period that the MTA has failed to comply with its terms.¹⁸⁵ In addition to failing to reducing overcrowding on its buses, the BRU claims that the MTA only partly implemented the two year pilot program required by the Consent Decree to expand county-wide bus services and never developed or implemented the subsequent Five-Year plan to improve service.

Perhaps not surprisingly, the MTA Board voted to appeal the Special Master s decision to the district court. That decision, supported by County Supervisors Yaroslavsky, Mike Antonovich and Don Knabe, and four local suburban city representatives, was opposed by then Los Angeles Mayor Jim Hahn, son of the late Supervisor Kenny Hahn, and his appointees. Despite the fact that the 2001 LRP calls for increasing the bus fleet to 3,300 from its current 2,000 peak buses, the MTA challenged the Special Master s authority to order the agency to purchase new buses to cure its violation of the 1.25 and 1.20 LFT requirements, as well as his order that it stick to its own accelerated bus replacement plan. The BRU saw this as a continuation of the

¹⁸⁴David Yale Declaration, quoted in Memorandum Decision II, p. 32, n.22.

¹⁸⁵Plaintiffs Motion to Extend the Duration of the Consent Decree for at Least Six Years, March 5, 2004.

Board's attempts to raid inner city bus funds for suburban highway and rail projects.¹⁸⁶ The Special Master based his decision, in part, on the fact that although the MTA had made some progress in remedying overcrowding due to missing buses, the percentage of exceedences attributable to missed trips has increased from 14 percent in the second quarter of 2003 to 23 percent in the third quarter of 2003, due in large part to the MTA's delay in purchasing replacement buses.¹⁸⁷ Moreover, the average age of the bus fleet was again increasing, following an initial reduction in the number of overage buses. The MTA asserted, similarly to its unsuccessful argument before the Court of Appeals, that it alone has discretion to determine how to add service to meet the load factor targets and if and when to purchase replacement buses. The BRU, in turn, argued that the MTA only has discretion regarding how to *initially* meet the targets, not how to remedy admitted violations. Judge Hatter summarily affirmed the Special Master's January 2004 order.¹⁸⁸ The following September, the MTA Board, led by new Board chairman, Los Angeles Mayor Antonio Villaraigosa, voted to purchase 200 new buses at a cost of \$100 million. Rather predictably, the BRU complained it was not enough and accused the new Mayor of caving into MTA pressure.¹⁸⁹

¹⁸⁶BRU, Can You Say, Transit Racism! (undated flier).

¹⁸⁷Memorandum Decision II, p. 53.

¹⁸⁸Order, L/CSC v. Los Angeles MTA, Case CV94-5936 TJH (MCx), June 25, 2004. The court also stated it would consider modifications to the order based on the MTA's current and future financial resources and to extend the term of the Consent Decree.

¹⁸⁹*Los Angeles Times*, MTA to Buy 200 New Buses, Riders Want More, September 23, 2005.

Two other matters came before the Special Master prior to his recent resignation. First, the members of the JWG failed to come to an agreement concerning the MTA's proposed bus service reduction policy, nor could they agree on the scope of the five-year service improvement plan required by the Consent Decree to increase county-wide access to educational, employment, and health care centers in the region.

Five-Year New Service Program

In 1997, the MTA announced an 18-line Pilot Program but only inaugurated service on two express, four local, and six community circulator lines (total 63 buses). When the Special Master ordered the JWG to file a New Service Plan, the MTA proposed only to retain those lines and institute service on the six remaining lines (49 buses), which he deemed nothing but a continuation of the MTA Board's Pilot Project to link a few isolated areas that failed to meet the minimum requirements of the Consent Decree. The BRU presented a separate plan calling for 544 new buses and 50 new shuttles but Bliss concluded it was beyond what the MTA had agreed to do in the Consent Decree. He ordered the JWG to produce a more comprehensive New Service Plan using the Rapid Bus system as the backbone of a plan that would provide for additional service. He directed that in addition to continuing the Pilot Program, the MTA should expand the Rapid Bus 3-line demonstration project (97 buses) to an additional 13 lines (203 buses,

with a minimum of 134 new buses) and provide new freeway express and community circulator services (100 buses).

The MTA and BRU representatives on the JWG again failed to reach any consensus on a New Services Plan and each ultimately submitted separate plans for consideration. The MTA Plan proposed expanding the Pilot Program with 28 new Metro Bus lines by June 2008. The BRU complained that the plan did not include additional bus service hours and simply diverted resources from other lines rather in contrary to the Special Master's explicit instructions. They also contended that rather than providing more frequent service, which was the original intent of the Rapid Bus program, the MTA was substituting larger articulated buses running less frequently, which would mean longer wait and travel times.¹⁹⁰ The BRU's own plan was far more ambitious involving three tiers of service: (1) Freeway Bus Network, (2) Metro Rapid Bus, and (3) General Neighborhood Services. That plan required 576 new buses, 50 shuttles, and a total of 2,351,000 new annual in-service bus hours to the June 2004 fleet of 2,158 buses.¹⁹¹ The Freeway component included 243 new buses operating on 5 minutes headways on major freeways with 35 new bus stations providing connections to the Rapid Bus and local bus lines. It also provided for expanded service on the 28 Metro Rapid routes proposed by the MTA, including bus-only lanes, more frequent service and additional off-peak

¹⁹⁰Plaintiffs' Comments on MTA Proposed New Service Implementation Plan, October 20, 2005.

¹⁹¹This was still far less than the old LACTC's plan to expand the bus fleet to 3,200 buses by 2001 and 3,900 by 2021.

service. Finally, the plan proposed new shuttle service operating primarily in canyon areas where many transit dependents are employed as domestic workers.¹⁹²

Bliss ultimately accepted the MTA Plan but required the agency to come up with an Implementation Plan in consultation with the JWG by July 31, 2005 incorporating specified criteria that guaranteed additional bus service without degrading existing service on local lines and connections to other parts of the system. However, he also encouraged MTA to consider the BRU's thoughtful and comprehensive plan and implement portions where feasible.¹⁹³ Although the BRU was pleased by some aspects of the Special Master's November 30, 2005 Final Order, it remained concerned by local service cuts enacted in connection with the Rapid Bus program and the lack of new freeway bus and shuttle service.¹⁹⁴

¹⁹²BRU Five-Year Plan for Countywide New Bus Service, January 14, 2005.

¹⁹³L/CSC v. Los Angeles MTA, Case CV94-5936 TJH (MCx), Memorandum and Order in re New Service Plan, April 2005.

¹⁹⁴BRU Press Release, BRU Wins Split Decision in Grueling Legal Fight, December 2005.

Bus Service Reductions Policy

As noted above, as part of his order regarding compliance with the load factor targets, the JWG was to report to the Special Master on the impact of the MTA's proposed service reductions. As Bliss explained, it is the Consent Decree's clear mandate that rail and other transportation programs are not to be funded by diverting resources from the bus system, resulting, once again, in a deterioration of bus service. Nor can the load factor targets be met simply by realigning bus service from less crowded to more crowded lines. There must be a net system-wide improvement in bus service.¹⁹⁵ He ruled that the policy would have to meet a two-part test: (1) such service reductions are independently justified on the basis of objective efficiency and resource allocation criteria; and (2) the transit-dependent are not adversely impacted.¹⁹⁶

On January 27, 2005 the MTA Board approved its updated Transit Service Policy (TSP). While the MTA insisted that the TSP was based on objective criteria and designed to mitigate the impact on the transit-dependent, the BRU claimed that it was (1) budget-driven, (2) favored overcrowded bus lines in violation of the load factor requirements, and (3) was not being applied consistently or objectively. The Special Master examined the application of several TSP policies as to whether they were

¹⁹⁵L/CSC v. Los Angeles MTA, Case CV94-5936 TJH (MCx), Memorandum Decision and Order on Service Reductions, May, 2005 [hereinafter *Memorandum Decision on Service Reductions*], p.3.

¹⁹⁶Memorandum Decision on Service Reductions, p. 11.

consistent with the Consent Decree as applied to service reductions intended to (1) meet load factor targets, (2) divert resources to non-bus initiatives, or (3) meet budget constraints.

First, he found that the TSP goal of 30-minute headways during peak hours was not adopted solely to free resources to meet the load factor reductions or primarily for budget reasons, both prohibited by his earlier decrees. Rather, it was based on objective criteria that justified dropping lines that could not support that minimum level of service. But, while the MTA noted that low performance lines were not automatically subject to modification cancellation, Bliss ruled that the policy had not been applied effectively in evaluating and mitigating adverse impact experienced by transit-dependent riders, acknowledging the BRU contention that lines with longer headways were often subject to service reduction resulting in adverse impact in transit-dependent riders. He ordered the MTA to clarify the standard and its application to ensure that any such impacts were avoided or mitigated. The BRU also contended that whereas the MTA judged bus service solely on demand, rail performance guidelines were set to achieve a reasonable, attractive level of service. Here too, while Bliss accepted that the standard satisfied the first prong of his test, he admonished the MTA to consider whether improved service or marketing might increase demand on poorly performing lines. Similarly he held that while the TSP policies appeared to favor longer hours of service for rail than bus, it too was based on objective criteria. Again though, he concluded that the TSP lacked

sufficient guarantees that particular service decisions would adequately address the needs of transit dependents who rely on bus service outside normal hours to get to night jobs or classes, or health care.

Another area of concern was the MTA policy to eliminate duplicate bus service along rail lines. The BRU argued that the policy was just an excuse to cut bus lines, while the MTA countered that rail offered better quality service. The BRU took issue with that, noting that rail often meant longer wait times, additional transfers, and further walking distances to reach rail stops. The Special Master found that while it was not entirely clear that the policy was either independently justified or objective, the fact that (1) it was limited to express and limited stop service, not local service, (2) bus routes were more flexible than rail, and (3) effective integration of bus and rail systems, was important to achieving an overall improvement in service to transit dependents, militated in favor of the policy. However, here again he concluded that the MTA lacked an effective mechanism to evaluate and mitigate any adverse impact of specific decisions on transit dependents.

Finally, the Special Master judged the TSP's Route Performance Index (RPI) designed to compare performance between different bus or rail lines in a particular service category, failed to satisfy the commands of the Consent Decree. The RPI consisted of three factors:

(1) Utilization of Resources the total number of boarding per line divided by the number of service hours in operation.

(2) Utilization of Capacity the number of passenger miles per seat miles.

Passenger miles equals the average distance traveled per passenger multiplied by the number of passengers. Seat miles equals the number of seats per vehicle multiplied by the number of service miles in operation

(3) Fiscal Responsibility the subsidy required to cover the difference between the cost of operations and the passenger revenues collected.

Scores were averaged for each service category and lines that fall too far below average were targeted for corrective action, which could include modification or cancellation.

The BRU raised an number of objections to the RPI but chiefly they complained that it favored overcrowded bus lines in violation of the policy to reduce passenger loads contained in the Consent Decree. The BRU noted that several lines with the lowest per passenger subsidies had a high number of peak period load factor violations, and that even some which performed at or near the standard experience excessive crowding. Bliss agreed that the RPI ranks as best performing the bus lines that fail to meet the load factor targets required by the Consent Decree adding that while reducing subsidies and

optimizing resources are worthy and important goals, they cannot be achieved in a way that encourages deterioration in the quality of service.¹⁹⁷

Another problem, if dissimilar lines are compared, one or more line might well perform well below the collective average. If the worst line is cancelled, the average will go up and the next year, the next worst line will fall below average. In effect, a very crowded line will tend push the average up, even if all lines are performing adequately. The Special Master concluded that skewing the standard in this way to the detriment of less crowded lines was contrary to the goals of the Consent Decree.

The Special Master concluded that the RPI was guided primarily by budget concerns and directed the MTA to revise its policy in line with the load factor requirements of the Consent Decree, particularly to eliminate the potential skewing effect of severely crowded lines. As with the other three elements of the TSP, the MTA lacked a way to evaluate and mitigate any adverse impacts on transit dependents of any service changes based on the RPI.

Although the Special Master recognized the MTA's legitimate budget concerns, he warned: Resource-driven decision making may not be distorted by attempts artificially to improve load factor performance, may not divert funds from bus operation

¹⁹⁷Memorandum Decision on Service Reductions, p.25.

to finance other transportation initiatives, and must adhere to the Consent Decree's mandate that the priority in the use of bus-eligible funds should be the improvement of bus service.¹⁹⁸ He concluded:

While for the most part the Transit Service Policy is an objective, thoughtful and transparent articulation of the criteria that should govern bus and rail service decisions, it does not fully reflect as it has been applied in practice the special demands made on the MTA by the Consent Decree. Moreover, it is not clear that certain provisions contained in the TSP are being adhered to consistently. The TSP properly is focused on improving the quality of bus service, efficiently integrating bus and rail, and allocating limited resources fairly and efficiently based on objective criteria; however, the Consent Decree requires special attention be given to the impact of service changes on the transit dependent and specific steps taken to mitigate adverse impact. The extensive testimony provided by transit-dependent riders makes clear that more can be done to consider potential adverse impact and implement mitigation strategies.¹⁹⁹

The Special Master directed the MTA to revise its policies to assure a net positive

¹⁹⁸Memorandum Decision on Service Reductions, p.43.

¹⁹⁹Memorandum Decision on Service Reductions, p.44-5.

benefits to transit dependents from any changes in bus service and not reward or tolerate overcrowding. His December 9, 2005 Final Order required the MTA to reinstate or improve service to several Rapid Bus and local lines and to include adverse impact measures in its future service evaluations.²⁰⁰

MTA Continues to Pursue More Rail Projects

Even as it resisted court orders to purchase more buses, the MTA has continued to pursue additional rail and related projects. For instance, the MTA has proceeded with improvement projects in the San Fernando Valley. In April 2003, the MTA began construction on a 14-mile exclusive busway between Warner Center in Woodland Hills and the Metro Rail North Hollywood station. This \$330 Million BRT project went into service in October 2005 as the Orange Line, and follows the Chandler Boulevard route of the now abandoned East-West Valley Rail Transit project. It has 13 stations at major activity centers, five of which include park and ride lots.²⁰¹ Additional BRT projects in the San Fernando Valley North-South Corridor are also under consideration, funding permitting.

²⁰⁰BRU Press Release, Bru Wins Back Some of What MTA Stole from Bus Riders, December 2005.

²⁰¹MTA, Metro Orange Line Project, accessed at www.mta.net. Work on the project was temporarily halted in August 2004 by order of the California Court of Appeals as a result of a lawsuit filed by Citizens Organized for Smart Transit (COST) which opposed the project. The temporary stay was lifted in September 2004. The project has also been opposed by the large and established North Hollywood Orthodox Jewish community.

The MTA recently approved an alternative light rail plan for the Eastside Extension as part of the new Gold Line, which includes two underground stations in a section running through Boyle Heights. The 6-mile project, expected to open in late 2009 at a cost of \$898 million, is being financed without any Prop A or Prop C funds from a combination of state and federal monies.²⁰²

The Mid-City rail project remains suspended though the MTA has moved forward with planning for the Exposition Light Rail Project (running roughly parallel to Wilshire to the south) as well as continuing to study possible connections from the Red Line to the Green Line along the Crenshaw Corridor, including Bus Rapid Transit (BRT).²⁰³ On June 28, 2001, the MTA Board adopted a Light Rail Transit (LRT) alternative for the Exposition Corridor from downtown to Washington/National in Culver City and a BRT option for the Wilshire Corridor as the Locally Preferred Alternative (LPA).²⁰⁴ This \$640 million project recently completed the federal environmental review and approval process with construction expected to start in mid-2006.²⁰⁵ Other originally proposed rail corridor

²⁰²MTA, Metro Gold Line Eastside Extension Project Overview, accessed at www.mta.net.

²⁰³A major Investment Study (MIS) for the Mid-City/Westside Corridor was completed in March 2000. The MTA also completed a major investment study (MIS) for the Crenshaw Corridor in December 2002. Metro Rail Mid-City/Exposition Light Rail Transit Project and Crenshaw Transit corridor Project Overviews, both accessed at www.mta.net.

²⁰⁴The MTA completed environmental clearance (FEIR) for the Wilshire BRT project in August, 2002, and is now preparing the Final Environmental Impact Report/Statement (FEIR/S) for the Mid-City/Exposition Light Rail Transit Corridor and the Final EIS for the Expo LRT.

²⁰⁵MTA, Metro Rail Mid-City/Exposition Light Rail Transit Project, accessed at www.mta.net.

projects, such as the Burbank line, the Burbank-Glendale-Pasadena connector, the Green Line extensions, the Route 60 corridor, and the LAX-Palmdale project have all been indefinitely postponed.

Meanwhile, the MTA inaugurated several Rapid Bus lines along major travel corridors. The buses, painted red (to evoke memories of the old Red Cars) are distinguished by frequent service during peak periods, limited stops, enhanced station designs, including real-time Next Bus timing information, and electronic traffic signal priority at intersections that extend green lights or shorten red lights in the direction the buses travel. The first two demonstration lines were along Wilshire Boulevard and Ventura Boulevard in the San Fernando Valley (one of the original alternatives routes for the Red Line extension). The MTA currently plans to expand this service to an additional 26 corridors by 2008.²⁰⁶ The entire proposed Regional Transit Network from the MTA's 2003 Short Range Plan is shown in Figure 8.5. On the other hand, beginning in 2004, the MTA modified its fares as permitted by the Consent Decree, to reduce the base cash fare to \$1.25 but raised the price of tokens to \$1.10 and increased the monthly pass price from \$42 to \$52.²⁰⁷ It also eliminated the 25¢ transfers; instead, riders can now purchase a

²⁰⁶As of June 2004, Rapid Bus service also operates along Van Nuys, La Cienega, Crenshaw, Vermont, S. Broadway, Soto, Vernon, Florence and the I-405 between Ventura and Wilshire Boulevards.

²⁰⁷Weekly pass prices increased from \$11 to \$14, and semi-monthly passes went from \$21 to \$27. Other pass prices were unchanged. MTA, Recap of Proceedings, Regular Board Meeting, May 22, 2003. The MTA anticipated an additional \$40 in revenues from the fare increase, plus another \$10 million in local return funds under the Formal Allocation Procedure (FAP) due to its lowered base fare. The MTA contended the additional \$50 million in increased revenues were necessary to pay for the \$100 annual

(continued...)

\$3.00 all-day pass. The Plaintiffs still have pending a motion for contempt against the MTA for its failures to timely meet the LFTs and produce a bus expansion plan as well as a motion to extend the Consent Decree on account of the MTA's delays in compliance.

²⁰⁷(...continued)

Consent Decree costs and avoid further *service reductions*. Under the terms of the Consent Decree, the MTA was permitted to raise fares, without limit, after November 1, 2003. Consent Decree, § III.F. Nevertheless, the Plaintiffs considered this a violation of the spirit of the Consent Decree, arguing that the MTA had not fulfilled its commitment to improve bus service over the six-year period that fare increases had been restricted. Memorandum of Points and Authorities in Support of Plaintiffs' Motion to Extend the Duration of the Consent Decree for at Least Six Years, March 5, 2004, pp. 22-29.

versus rail debate will continue, but whether because of the lawsuit or merely a belated recognition of fiscal reality, the current MTA program is far different from the one set forth in the 30-Year Plan. True, the MTA has completed the Orange Line East-West Valley Bus Rapid Transit guideway which critics liken to a light rail line on rubber tires, and is currently constructing the Gold Line East Side extension and finalizing studies for the Mid-City Exposition LRT and Wilshire BRT projects. But, it is also working to expand its Rapid Bus program, beyond its successful Wilshire/Whittier and Ventura Corridor demonstration routes.²⁰⁸ Still in all, it has yet to fully meet its obligations under the Consent Decree to reduce overcrowding. Despite both sides' attempts, at times, to deny a linkage between the buses and fixed rail, it is apparent that each, in its own way, views the situation as a zero sum choice. Given the MTA's recalcitrance over implementing the settlement agreement, the BRU views stopping the rail program as the only way to free up funding for bus improvements. The MTA Board likewise still seems to see bus improvements, beyond what they want to implement, as a threat to eventual rail expansion. Notwithstanding the current fashion for speaking in terms of *multimodalism*, for better or worse, the struggle for transit equity in Los Angeles will probably continue to be perceived as a fight between bus proponents and rail advocates. What is crucial to recognize though, is that the choice is not merely which mode is better in some technological sense, but who implicitly benefits and who bears the burden when choosing one over the other. That is the real question that must be addressed.

²⁰⁸MTA Final Report, Los Angeles Metro Rapid Demonstration Program, Marsh 2002.

CHAPTER NINE: DISCRIMINATION IN PUBLIC TRANSIT

Two related but analytically separate issues dominated the legal battle between the parties: 1) were the MTA's proposed fare restructuring policies discriminatory? and 2) were the MTA decisions to fund a regional rail system discriminatory? For strategic reasons, at various times both the Plaintiffs and the MTA sought to link these two issues. Prosecuting a successful lawsuit is often as much about creating a convincing storyline that gives meaning and credibility to the raw evidence as crafting convincing legal arguments. One part of the Plaintiffs' strategy was to paint a picture of the MTA as an unfeeling bureaucracy at once indifferent to poor people and minorities and committed to serving the interests of wealthy elites. The Plaintiffs accused the MTA of:

intentionally and unnecessarily imposing . . . extreme hardships on minority poor bus riders by hiking bus fares and cutting passes while diverting funds to the proposed Pasadena rail line designed to serve an eventually white and relatively wealthy commuter ridership.¹

¹Plaintiffs' Complaint, August 31, 1994, ¶ 5

Plaintiffs maintained that the MTA was operating a discriminatory, two-tiered, separate and unequal system of public transit - one for poor minority bus riders and another for predominantly white and relatively wealthy rail riders. The rhetorical device of equating poverty with minority status and wealth with majority interests that the Plaintiffs employed consistently throughout the litigation served to merge issues of race, ethnicity, class and power into a moral imperative for action. Accordingly, support for the bus became a proxy for defending society's downtrodden masses, while backing rail was equated to sanctioning repression and prejudice. In this context, the bus vs. rail debate was no longer merely an exercise in fiscal budgeting, but a fundamental social conflict between the haves and the have nots. More critically, it also transformed the narrow legal arguments into a broader contest over the role of public transit, a conflict, it can be argued, between competing visions of urban space - one reflecting the political and bureaucratic imperatives of planners and politicians on the one hand, and on the other one characterized by the life-spaces occupied by urban, low income, people of color.

As discussed in previous chapters, this debate, and the issues raised by the Plaintiffs, were not unfamiliar to the planners and administrators within the MTA. The RTD had wrestled with the LACTC and the County Board of Supervisors over these very questions for years prior to the merger and the debate continued internally within the MTA after the merger of the two transportation agencies. As already noted, the issue was only settled administratively when the so-called bus faction was swallowed up by the

rail proponents in the merger. But, the silencing of the bus advocates within the new MTA did not resolve the underlying issue of the deteriorating bus service in the inner city and the ballooning cost of the regional rail program. What had been first an interagency and later an intra-agency fight simply moved out of the bureaucratic ring and into the public arena.

The Plaintiffs claimed that the MTA had degraded the bus system to secure funds to support its rail program. While the MTA obviously took a very different view of the case, its lawyers accepted both the conceptual linkage between the fare increase and the rail program (though they argued against its factual truth) and the core philosophical dispute (though with a somewhat different focus). Though they denied that the decision to increase fares was due to shortfalls in the rail construction budget, they nevertheless argued that it would be wrong to use funds that were available for rail development to instead improve bus service. They agreed though that the case was basically about buses versus rail.

The MTA characterized the Plaintiffs' central claim in the lawsuit as an attack on the agency's commitment to developing a regional rail system, particularly the proposed Blue Line extension to Pasadena. Indeed, Plaintiffs repeatedly attacked the Pasadena Blue Line (PBL) project on the grounds it would primarily serve non-minorities and sought to derail it in preference to expanding local bus service. They chastised the MTA

for not developing a transit plan that made sense for a low-density city like Los Angeles.² In a concurrent administrative complaint to the U.S. Department of Transportation, they recounted how after voting to impose fare hikes and pass cancellations on its poorest and minority patrons, the MTA voted to expend another \$123 million on PBL planning, at least \$50 million of which was discretionary funds that could have been used to avoid imposing severe hardship on the minority poor.³ While the MTA claimed that delaying the PBL would not help avoid the fare increase as there were no uncommitted Proposition A or C funds that would be made immediately available,⁴ Plaintiffs countered that such funds would at least be available no later than FY 1999, only three years away.⁵

Plaintiffs denied, however, that they were opposed to rail development *per se* but did allege that the MTA was obsessed with its rail program and complained that defendants had deliberately re-allocated the only available funds that could have been used to avoid the bus fare hikes and pass cuts to rail. The Plaintiffs rejected the charge of anti-rail bias, arguing instead that the agency had lost vision in single minded pursuit of rail alternatives:

²Letter to Antonio Califa, August 30, 1994, p. 4.

³Letter to Antonio Califa, August 30, 1994, p. 6.

⁴Expert Report of Robert L. Peskin, October 16, 1995.

⁵Supplemental Expert Report of Martin Wachs, September 9, 1994.

During the early 1980s, when the first sales taxes were spent for a multimodal system of enhanced bus service supplemented by rail, transit planners and bus riders themselves welcomed the image of the workhorse of the mass transit system -- the bus -- augmented by high speed rail lines. But in a county with more than 4000 miles of bus lines, rail began to undermine the viability of a public transit system with a rail system that if ever completed would cover 400 miles. Rail developed a growing opposition from both mass transit users and transit planners alike. The Plaintiffs have no love of buses or animus towards rail. They are dedicated to a high quality multimodal transit system in which of necessity buses must be the centerpiece, and the 350,000 bus riders must be given priority over the 26,000 rail riders in terms of simply equitable and democratic use of transit dollars. It is when rail began to destroy mass transit that the demands for a moratorium on rail began to be put forth -- especially as the MTA itself began to reduce service and raise fares.⁶

The MTA's choice to view the case as mainly a fight over the Pasadena project may have

⁶Plaintiffs' Reply Memorandum in Support of Plaintiffs' Application for Preliminary Injunction, September 9, 1994, page 12, n.3. Since the lawsuit, the BRU has taken a decidedly anti-rail position: But as we began to study, of necessity, urban and transportation policy, we found that the vast majority of both progressive and libertarian transportation experts opposed rail construction as inherently unsound in increasingly dispersed urban/suburban megacities in which there is not sufficient density to justify massive rail spending and in which consistently changing transportation patterns require the most flexible transit technologies to rapidly change transportation routes. It is flexible buses, not fixed rail that must be the centerpiece of a regional transportation hub. L/CSC (2001), pp. 29-30.

been as much strategic as a reflection of the agency's increasing bunker mentality owing to numerous public relations gaffs and construction mishaps that had made it the object of ridicule and scorn in the public media. By casting its legal arguments in terms of a somewhat esoteric debate over the relative merits of rubber-tired buses and fixed-rail transit, the MTA attorneys could stress the agency's policy-making function and bank on the courts' general reluctance to second-guess administrative expertise. By further painting a picture of the case as a minor squabble by a group of disgruntled eco-activists over a project strongly supported by the voters, the MTA lawyers could hope to divert the focus from the agency's troubled fiscal policies.⁷

The MTA's experts presented numerous reasons why rail was a superior investment compared to buses. First, they insisted that fixed guideway systems improve movement in tightly settled urban areas in an environmentally and aesthetically attractive manner. Reminiscent of the debates in the 1920s and 1930s over rail development in Los Angeles (see Chapter Four) they further argued that a radial, regional rail system would support current downtown activities and that improved transit capacity would enable future downtown growth and development. Clearly, despite the growing cost of developing the rail system, the MTA brass saw the project primarily as a key part of a strategy to revitalize the central city as the regional economic focal point. They hoped an

⁷The BRU has continued to attack the Pasadena project, even after it went into operation, calling it "Bad for Civil Rights, Bad for Transit" and proclaiming "MTA's New Gold Rush—Built on Civil Rights Violations." *Bus Riders Union Press Advisory*, July 25, 2003.

extensive radial system would draw new business to the downtown by connecting it to an expanded labor market. The increased volume of transactions in the CBD, they predicted, would encourage an agglomeration of economies that would presumably make even further growth possible. The benefits were not to be limited to business; rail also stood to improve social equity and improved job access for the underprivileged:

An active downtown with close ties to suburban areas will relieve segregation by race, class and age *at least within the daytime activity environment*.⁸

Rail, according to the MTA, was faster and more reliable than buses because it operated on exclusive rights-of-way. It also had significant advantages over buses in terms of increasing transit ridership while reducing unit operating costs, saving energy and improving the environment, enabling urban reconstruction, and even providing benefits to non-users by reducing congestion. By concentrating on serving the travel stream with high quality, all day rail service, rail could also service multiple markets compared to single market, mainly peak-period buses, which would broaden mobility for the transit dependent. They asserted that riders would be willing to travel much longer distances to reach a rapid transit station than a bus stop since it would offer better access to downtown. Over the long run, rail represented a permanent land use commitment that

⁸Declaration of Jeffrey Zupan, October 3, 1994 (emphasis added).

would encourage compact development around rail stations, reduce travel and resource consumption, and preserve farmland and open space. And, the existing and proposed rail lines would benefit low income persons, since they passed through many low income communities on their way downtown. Finally, they contended that the proposed rail lines would be successful based on comparisons with other cities.⁹

The MTA also touted rail as part of a broader multimodal transportation system for the region as an alternative to continued expansion of the freeway system, which it characterized as highly unbalanced, uneconomical and doomed to increasing

⁹Declaration of Jeffrey Zupan; Expert Report No. 3 by Jeffrey Zupan., September 16, 1995. Zupan relied on guidelines he had helped to create that estimated the land use densities and downtown size needed to generate enough ridership to cost-justify various types of rail investments. See Pushkarev, Zupan, and Cumella (1982). For an average financial commitment of \$1,250 per passenger mile (1977 dollars), the authors calculated that the following projects would be supported by the given level of ridership expressed in weekday passenger-miles per line-mile:

Light rail at grade	4,000
●—each grade, cut & fill, elevated	7,200
●—tunnel	13,600
All tunnel	40,000

Zupan conceded, however, that projected ridership on the Pasadena Blue Line (1,250 passenger miles per line mile) would exceed only his middle threshold benefit level for light rail, while the Green Line (6,200) would only pass the minimum threshold, providing some operating savings compared to local buses, but not necessarily any energy savings. Even the combined Blue Line (Long Beach and Pasadena) and Green Line light rail system (13,500) would only meet the second level, justifying only at grade construction, with some cut and fill. In contrast, he believed that based on downtown floorspace and adjacent residential densities, the entire Red Line, including the east, west, and north extensions, surpassed the highest threshold, justifying the added costs of tunneling. It is worth noting, the Red Line currently (January 2005) carries about 100,000 passengers per day on weekdays, roughly 1/3 of original projections. The Long Beach Blue Line has been more successful, with 65,000 passenger a day, somewhat above predictions, while the Green Line carries only 28,000 and the recently-opened Gold Line (formerly Pasadena Blue Line), approximately 15,000. MTA, Facts at a Glance, accessed at www.mta.net/press/pressroom/facts.htm

congestion.¹⁰ Such alternatives would be needed for the region to meet its obligations under ISTEA and the Clean Air Act of 1990. Rail would also give those without a car a decent way to travel throughout the region. Plaintiffs, the MTA argued, were shortsighted to recommend diverting rail capital funds to bus operations, irrespective of the short term impact of a fare increase on low income and minority bus riders. Their position went against the national trend of public transit agencies to invest in rail rather than buses.¹¹ It also ignored the economic benefits to the region from federal investment, estimated at nearly \$11 billion.¹²

Throughout the litigation the MTA chose to view the case through the lens of this larger bus vs. rail debate and spent considerable energy defending its investment in rail development from a policy standpoint. From their perspective though, the issue was devoid of social or political content—merely an academic disagreement over the relative merits of rubber tired buses and steel wheeled trains. The MTA lawyers strategy clearly served the institutional needs of the agency to defend its rail program in general, and specific projects heavily backed by the Mayor of Los Angeles and other powerful local politicians, in particular. As a result, however, the MTA's focus on defending its rail commitment left it in a weaker position to counter many of the Plaintiffs' substantive complaints about the quality of the remaining bus service. For instance, they otherwise

¹⁰Declaration of Vukan R. Vuchic, September 30, 1994.

¹¹Declaration of Michael Bernick, September 28, 1994.

¹²Expert Report of Robert L. Peskin, October 16, 1995.

largely ignored any arguments based on the potential synergistic relationships between bus and rail lines. By accepting the dichotomy between bus and rail service the MTA basically acquiesced in the Plaintiffs strategy of demonstrating a Title VI violation by presenting statistical comparisons between the two modes as if they were separate and unequal systems akin to all white and all black schools.

The Plaintiffs, despite the time and effort that the BRU had spent opposing the PBL project, refused to be drawn too deeply into a sterile debate over the merits of different modes of transit, except as it suited their own purposes. Their attorneys were freer to pick their points of attack, and thereby presented a much broader challenge that concentrated on various discrepancies between MTA services. From their perspective, the focus had to be not whether the MTA's fare and rail policies could be *justified* in some technical sense, but whether they were *discriminatory*. Nevertheless, the Plaintiffs lost few opportunities to undercut the various planning rationales offered by the MTA for pursuing its rail policies.

The Plaintiffs' experts, at times speaking from quite different philosophical perspectives, painted rail as a poor public investment compared to improving bus service. First, they pointed out that the Los Angeles region is not densely developed to where rail would be practical. Given the public's preference for low density living, they argued that high-capacity transit systems are extremely wasteful. Contrary to the assumption that

downtowns remain strong job attractors, most new job growth was following residences to suburban areas not easily served by rail.¹³ They noted that in the 1982 study relied on by the MTA, only a portion of the Wilshire Corridor met the criteria for viable heavy rail development, not the entire proposed 400 mile system.¹⁴ Moreover, there was little prospect that rail investment would stimulate the level of commercial and residential densities necessary to make it worthwhile. As USC Professor James E. Moore II put it, from an avowedly libertarian viewpoint:

Suggesting that urban residents should reconfigure their life-styles to fill transit is to confuse ends and means.¹⁵

Challenging the assertion that rail was needed to support downtown employment, Moore noted a steady decline in downtown employment and its reduced significance in the regional economy. Rather, development trends suggested increasing *decentralization*, as identifiable regional centers held 19 percent of the county's jobs in 1970, but only 12 percent in 1990. Nor was it clear how tying the downtown to suburban areas would

¹³Expert Report of James E. Moore, II, January 5, 1996.

¹⁴That report concluded: Los Angeles exceeds the upper, all-tunnel criterion for a line over 15 miles long in the densest corridor [Wilshire Boulevard]. Pushkarev, Zupan, and Cumella (1982), p. 182. The report also included that a westward tunnel extension to Westwood and a right of way to Van Nuys would still be viable, while a rapid rail line from Los Angeles to Long Beach would only support some tunneling in the downtown areas, while a line to Pasadena could be built as light rail but not above ground rapid transit. Perhaps it is worthwhile to reiterate that within the broader bus v. rail debate, there was also a subway v. light rail debate ongoing within the MTA, leftover from the days of the RTD and LACTC.

¹⁵Declaration of James E. Moore II, October 11, 1994.

benefit low income workers living near, but not in, the downtown core. Since the 1970s, job growth in the core had slowed, rising only 2.5 percent as it had exploded by 35 percent in the outlying parts of the region, despite good downtown freeway access. As a result, downtown s share of employment had fallen from 8.4 percent to 5.7 percent.¹⁶

In the Plaintiffs view, rail was simply too inflexible to meet the changing housing and employment needs of the region. The fact that the bus system was already heavily patronized, even at off-peak times, suggested that there was unmet demand for flexible bus services that rail would do little to relieve.¹⁷ Indeed, despite the arguments that rail was more efficient, since the rail program had begun there had been a loss of 96 million bus riders, compared to a 12 million gain in Blue Line ridership.¹⁸ Even if the entire rail system were to be constructed only 11 percent of the population would be within ½ mile of a rail station.¹⁹ Moreover, the poor needed better bus-to-bus connections, rather than bus-rail-bus connections to access the places they need for shopping, education, health care and religious purposes. The Plaintiffs experts opined that it was simply too expensive to build a rail system that could provide access to the wide variety of places

¹⁶Decl. of James E. Moore, ¶ 31, and Table 2; Expert Report of James E. Moore, II, January 5, 1996., pp. 14-15, Tables 3 & 4. Centers were defined as clusters of census tracts with job densities above 12,500 per square mile.

¹⁷Expert Report of James E. Moore, II, January 5, 1996.

¹⁸Declaration of Thomas Rubin, September 20, 1994.

¹⁹Declaration of Thomas Rubin, October 11, 1994.

urban residents want and need to go, compared with the bus system.²⁰ In addition, studies showed that cities that had added rail systems in recent years, had tended to underestimate ridership and overestimate costs.²¹

They also took issue with the argument that the public preferred rail to buses without considering the cost to serve a small segment of the transit market. Had rail monies been used to improve transit, they argued, bus service could have been expanded to serve even more riders.²² In an area like Southern California, more people could be encouraged to leave their automobiles by offering any form of transit that would effectively connect their trip origins and destinations. Along these same lines, they also maintained that rail was less cost effective than buses, chastising the MTA for failing to consider the added capital costs of rail in their comparisons or the economic benefits of improving bus service.²³ While some car users might well be enticed to use the rail system, Plaintiffs' experts argued that more current bus riders would be lost due to declining service.²⁴ Finally, they were particularly critical that the MTA was favoring downtown interests at the expense of other areas of the county, in general, and poor and

²⁰Declaration of James E. Moore II, October 11, 1994.

²¹Pickrell (1989).

²²Expert Report of James E. Moore, II, January 5, 1996.

²³Supplemental Expert Report of Martin Wachs, January 9, 1994.

²⁴The MTA suggested that rail provided operating cost savings over buses. The added capital costs would, however, mean more riders would be needed to achieve these overall cost benefits; thus probably requiring higher patronage levels than were reasonable to expect.

minority transit users who did not commute downtown, in particular.²⁵

The MTA's experts saw rail as supporting a more centralized urban form, with strong clusters of employment and residences, such as in downtown Los Angeles, Long Beach, and Pasadena, while at least some of the Plaintiffs' experts advocated for greater dispersal of transit services in line with presumed consumer preferences. Both sides, however, had to address the more immediate issue, whether the MTA's policies discriminated against minority riders. The issue, as one Plaintiffs' expert put it, was not whether rail would benefit some, but whether it benefits fewer better-off people while hurting larger numbers of poor people who are members of minority groups.²⁶ The two sides' conflicting approaches not only drew on their fundamentally differing views of the role of transit in urban development described above, but suggested a deeper cultural and political struggle over the meaning of urban space, only indirectly captured in the bus vs. rail debate.

As noted in Chapter Eight, the Plaintiffs' complaint in the Bus Riders Union lawsuit charged the MTA with violating the federal Constitution and various Congressional acts and administrative regulations of the Department of Transportation.

²⁵First Supplemental Declaration of Martin Wachs, October 10, 1994; Supplemental Expert Report of Martin Wachs, January 4, 1996. Wachs argued that rail was not inherently superior to buses, but that individual travel choices depend on a combination of factors, including time, cost, convenience, safety and security. He suggested that buses operating on grade separated busways would be faster, and require fewer transfers, than rail.

²⁶Wachs Supplemental Expert Report, p. 5.

Analytically, these involved two different types of claims, each bearing different standards of legal proof to prevail. The first are claims of intentional discrimination brought under either 42 U.S.C. §1983 to enforce the guarantees of the 14th Amendment or directly under Section 601 of Title VI of the 1964 Civil Rights Act.²⁷ The second are claims alleging racially or ethnically disparate effects covered by DOT regulations promulgated under Section 602 of the Act.

Intentional Discrimination Claims

The Supreme Court has ruled that the Fourteenth Amendment and Title VI prohibit only official conduct having an invidious discriminatory purpose. Thus, Constitutional or statutory claims of unlawful discrimination require specific proof that the governmental defendant intended to discriminate against a protected minority group on the basis of race or ethnicity.²⁸ Where a racially discriminatory purpose is express, the

²⁷Section 601 provides: No person in the United States shall, on the ground of race, color, or national origin, or be excluded from participation in, be denied the benefits of, or subject to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. §2000d. Pub. L. 88-352, Title VI, § 601, July 2, 1964, 78 Stat. 252.

²⁸Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976) [holding that the equal protection clause of the Fourteenth Amendment only prohibits intentional conduct.]; Guardians Association v. Civil Service Comm'n, 463 U.S. 582, 77 L.Ed.2d 866, 103 S.Ct. 3221 (1983) [holding that Title VI only prohibits intentional conduct]. *See also*, Larry P. v. Riles, 793 F.2d 969, 981 (9th Cir. 1984).

courts will invalidate such laws.²⁹ Actions that are race-neutral, but nevertheless are clearly intended to discriminate, are also prohibited.³⁰ Even where there are nondiscriminatory reasons for an action, it may still be unconstitutional if it was motivated by discrimination even if that was not the sole purpose.³¹ But a showing of mere disproportionate impact alone will not be sufficient to prove a Constitutional violation unless it evinces a clear purpose to discriminate.³² Although the Court initially seemed disposed to permit disparate impact claims to be brought under Section 601 of

²⁹Thus as early as 1879 the Supreme Court struck down laws prohibiting African Americans from serving on juries. *Strauder v. West Virginia*, (1879) 100 U.S. 303, 25 L.Ed.2d 664. In 1917, it struck down a state law prohibiting blacks from living on any city block already occupied by a majority of white residents. *Buchanan v. Warley* (1917) 245 U.S. 60, 38 S.Ct. 16, 62 L.Ed.149. And in 1938 the Court invalidated Missouri's plan for a whites-only law school. *Missouri ex rel. Gaines v. Canada* 305 U.S. 337, 59 S.Ct. 232, 83 L.Ed. 208 (1938).

³⁰*Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886). In *Yick Wo*, the Court invalidated a San Francisco law that prohibited the operation of laundries in wooden buildings without a city permit where the evidence showed that no Chinese applicant received a permit even though white applicants were routinely approved. The Court easily concluded that the intent of the law was to drive Chinese-owned laundries out of business. See also, *Gomillion v. Lightfoot*, 364 U.S. 339, 81 S.Ct. 125 (1960). In *Gomillion*, the Alabama legislature was found to have violated the Fifteenth Amendment by denying the right to vote based on race when it voted to redefine the boundaries of the City of Tuskegee from a square to an irregular 28-sided figure that excluded all but a few of the city's black residents, but no whites. Concurring in the result, Justice Whitaker argued that redrawing the city's boundaries on the basis of racial composition violated the Fourteenth Amendment.

³¹*Arlington Heights v. Metropolitan Housing Corp.*, 429 U.S. 252, 265, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977).

³²*Hawkins v. Town of Shaw*, 437 F.2d 1286 (5th Cir. 1971). In *Hawkins*, the evidence showed that over 97% of homes without paved streets or sanitary sewers were in all black neighborhoods housing 97% of all the town's black residents, and that all the city's new mercury vapor street lamps had been installed in all white neighborhoods. The Court of Appeals concluded the plaintiffs had made out a *prima facie* case of discrimination, requiring the town to establish a compelling public interest justify their actions, adding this court has long adhered to the theory that figures speak, and when they do, Courts listen. *Id.* at _____, quoting *Brooks v. Beto*, 366 F.2d 1, 9 (5th Cir. 1966). The U.S. Supreme Court decision in *Washington v. Davis* disapproves *Shaw* to the extent it holds that disparate effects alone trigger strict scrutiny without a showing of racially discriminatory purpose. See 426 U.S. at 244, n.12.

Title VI without demonstrating racial animus,³³ the Court's subsequent decision in *Regents of the University of California v. Bakke*,³⁴ which forbade the use of racial quotas as violating Title VI, cast doubt on the validity of the so-called *effects* test³⁵. Later, in *Guardians Association v. Civil Service Commission*,³⁶ the Supreme Court agreed that

³³See e.g., *Lau v. Nichols*, 414 U.S. 563, 39 L.Ed.2d 1, 94 S.Ct. 786 (1974); *Cannon v. University of Chicago*, 441 U.S. 677 60 L.Ed.2d 560, 99 S.Ct. 1946 (1979). In *Lau*, a case involving a public school district requirement that students be proficient in English, the U.S. Supreme Court inferred that actions that have either a discriminatory purpose *or effect* could violate Title VI. Five justices in the majority held that the district's decision not to provide remedial English language instruction to students of Chinese ancestry violated the statute even though there was no allegation that the district harbored any racial animus toward the students, just that it failed to follow the guidelines issued by the Department of Education mandating such instruction. Three other justices (Burger, Blackmun and Stewart, concurring in the result) questioned whether in the absence of some affirmatively discriminatory actions, the school district could be held to have violated Section 601, but agreed that its conduct did not comport with the regulations adopted under Section 602. Regardless, all seemed to agree that private suits to enforce such claims were permitted. *Cannon* dealt with a claim of sexual discrimination under Title IX and Title VI challenging age limits for medical school admission. The Court held that the remedies available under Title IX were comparable to those under Title VI, including an implied cause of action for victims of prohibited discrimination. *Id.* at 703. See Justice Stevens dissenting opinion in *Alexander v. Sandoval*, 532 U.S. 275, 296-8; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001).

³⁴*Regents of the University of California v. Bakke*, 438 U.S. 265, 98 S.Ct. 2733, 57 L.Ed.2d 750 (1978). In *Bakke*, the University of California at Davis medical school had reserved 16 of the 100 places in each year's entering class for minority applicants in its admissions program. A deeply divided Supreme Court ruled that Title VI does not ban all affirmative actions to remedy the effects of past discrimination but that the scheme was facially invalid because preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. See Nager, 1993, p. 1065. But, a majority of the Court also held that minority status could be considered as one factor in the admissions process.

³⁵In a divided opinion, five of the Justices rejected the claim that Title VI banned all race-based classifications including affirmative actions that did not offend the Constitution designed to remedy past discrimination and achieve equal opportunity. Justice Powell, who authored the plurality opinion, argued that all racial classifications created by state or local governments are unconstitutional unless they pass strict scrutiny, that is, they are narrowly tailored to achieve a compelling governmental purpose. But, he also concluded that the state has a substantial interest in ethnic diversity in education that might justify some race-conscious admissions programs. Four justices (Brennan, White, Marshall, and Blackmun, concurring in part and dissenting in part), reading Title VI in light of its remedial purpose and legislative history, wrote that the scope of Title VI was absolutely co-extensive with the Equal Protection Clause and decline to read *Lau* as barring actions designed to redress discrimination *against* minorities, yet having the *effect* of discriminating against non-minorities.

³⁶*Guardians Association v. Civil Service Commission*, 463 U.S. 582, 610-12, 77 L.Ed.2d 866, 886-88, 103 S.Ct. 3221, 3236-37 (1983). The case involved the police department of the City of Washington D.C. administering written examinations to applicants which allegedly had a disparate impact on passage rates by

(continued...)

Bakke indeed held that Title VI claims must be supported by proof of intent since the drastic result of a violation, namely a cutoff of all federal funds, demanded proof of some intentional behavior.³⁷

Where there is no direct testimony or other evidence of racial animus on the part of the public officials charged, the question of intent depends on the circumstances. Generally speaking, it is extremely difficult nowadays to prove that an agency or business has acted out of racial prejudice. Public sensitivity to issues of race, ethnicity, sex and physical disabilities has rendered such overt behavior socially unacceptable. Absent documented statements, internal memoranda, or emails expressing race bias or other incriminating evidence, deliberate conduct must be inferred by actions. The Court has

³⁶(...continued)

blacks and Hispanics, and were not job related. The district court, relying on *Lau v. Nichols*, ruled that no proof of intent to discriminate was required and invalidated the tests. 466 F.Supp. 1273 (S.D.N.Y. 1979). Two judges on the Court of Appeals ruled that *Baake* had overruled *Lau* and that Title VI therefore did not cover actions that merely have a disparate impact on minorities. 633 F.2d 232, 270, 274-5 (2nd Cir. 1980). Though the Supreme Court opinion in *Guardians* is usually taken to have held that Title VI prohibits intentional discrimination only, *Lau* was not specifically overruled (at least insofar as it found liability based on administrative regulations) and indeed a majority of the Court concludes that Title VI also authorizes federal agencies to promulgate regulations pursuant to Title VI incorporating a disparate impact standard. Again, a majority of the court at least assumes that at private right of action is available to enforce these claims.

³⁷463 U.S. at 610-11 (Powell, Burger, and Rehnquist, concurring); id. at 641-642 (O'Connor, concurring); id. at 641-2 (Stevens, Brennan, and Blackmun, dissenting). White and Marshall, however, reasoned *Bakke* held only that intentional, but benign, racial classifications otherwise permitted by the Constitution did not violate Title VI but never address whether nonbenign, but unintentional actions (that would therefore not necessarily violate the Fourteenth Amendment) were nevertheless prohibited by Title VI. Justice Marshall, in his dissent, agreed with Justice White's view that such unintentional conduct could indeed be reached by Title VI, noting that since *Bakke* involved affirmative action, the Court there was not required to decide whether proof of intent was necessary inasmuch as the case dealt with an obviously deliberate design to increase minority registration. Indeed, a majority of the Court concluded that it was all right to take race into account in admission decisions. Thus, he concludes, his *Bakke* language that Title VI was co-extensive with the Equal Protection clause was superfluous.

identified four factors for trial courts to consider in evaluating agency conduct for allegedly purposeful racial discrimination:

(1) the impact of the official action, whether it bears more heavily on one race than another, may provide an important starting point; (2) the historical background of the decision, particularly if a series of official actions was taken for invidious purposes; (3) departures from the normal sequence; and (4) substantive departures, particularly if the factors usually considered important by the decision maker strongly favor a decision contrary to the one reached.³⁸

Plaintiffs relied on much of the historical development of public transit described in Part II to demonstrate that local officials had long and deliberately operated a segregated transit system in Los Angeles; providing good quality service to white areas and substandard service to minority ones. They attempted to link the public transit system directly to the racially-driven uneven social and economic development of the county. Much of the evidence produced in support of the Plaintiffs' purposeful discrimination claims in the BRU case rested on historical data and largely anecdotal reports related by former employees of the agency. Undoubtedly there was a period of time in which the MTA's predecessor agencies could rightly be accused of deliberate

³⁸Arlington Heights v. Metropolitan Housing Corp., 429 U.S. 252, 266, 266-7, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977).

prejudice against people of color. Some capital acquisition, routing, and other service decisions may well have been influenced by improper motives in the past, but it is difficult to sustain the charge that the present MTA is, as the BRU has maintained, a racist organization, at least in the more overt sense of the term.

First of all, many of the employees of the MTA, at all levels of responsibility, are members of minority groups. Indeed, the Chief Executive Officer at the time of the lawsuit and himself a named defendant in the case, Franklin White, was African American, as were several of the other officials who testified in favor of the agency's fare and rail policies. Transit planning in Los Angeles, was not a monolithic exercise. As noted in Chapter 3, serious debates occurred first between the RTD and the LACTC, and later within the MTA, over the impact of both the rail program and the fare increases on poor and minority riders. In addition, some members of the governing Board of the LACTC, and later the MTA, were themselves members of minority groups. Gloria Molina, a Latina, was a County Supervisor who supported the rail program and voted in favor of the fare restructuring proposal. She too, was concerned over the social effects of the increased fares.

It may be fairer to suggest that the bureaucratic culture of the MTA (and its predecessor the LACTC) was so driven by the desirability of rail development, that social welfare considerations were routinely trumped by the overriding imperative to advance

rail even to the detriment of the bus system. Internal memos indicate that declining bus ridership was viewed as a natural reflection of reduced consumer demand that permitted the agency to implement service reductions and free up scarce funding that could then be used for rail construction and operating expenses. It seems not to have penetrated the MTA's bureaucratic culture that these policies might be contributing to a downward spiral of service cuts leading to reduced ridership justifying further service cuts. This strong emphasis on rail development may be taken as a sign of institutional racism, but whether it is evidence of actual racial animus is much more problematic. At the very least, the MTA's bureaucratic insistence on treating the bus and rail programs as separate entities made it much harder for transportation planners to see their interrelatedness.

The BRU, for reasons of strategy, frequently refers to the MTA as a racist organization in its press releases and literature.³⁹ The term carries a double coding. On the one hand, it bears all the connotations associated with the history of Jim Crow: violence, lynching, race hatred; and it cannot help but be heard in that way by many. As part of the street theatre employed by the BRU, it galvanizes supporters that no doubt harbor suspicions of the true motives of the MTA Board and administrators. It also serves to put the MTA on the public relations defensive. At the same time, it can be read as simply blaming the *culture* of the MTA, not particular persons, for actions that in their

³⁹A sample of press release titles include: National Study Highlights Racism in Transit Policies, (June 19, 2003); Showdown at MTA Over Fare Hike: Bus Riders Union Challenges MTA Board Reject the Class-Biased and Racist Fare Hike (May 22, 2003); Who Voted Against Buying the 526 Buses to Remedy Your Civil Rights? Can You Say, Transit Racism! (undated).

view ignore the needs of their poor and minority patrons. In a film documentary about the organization's campaign against the MTA, BRU head Eric Mann, explains his use of the term in just that way.⁴⁰ From a legal standpoint, of course, such labels are rather meaningless, and the Fourteenth Amendment, according to the Supreme Court, requires proof of deliberate racial motivation to establish liability. Mere evidence of negative outcomes or even disproportionate impacts is insufficient in and of themselves. In his only ruling on the matter, Judge Hatter found that the Plaintiffs had raised serious legal questions regarding their disparate impact and intentional discrimination claims, but did not elaborate.⁴¹

Disparate Impact Claims

In addition to challenging the agency's proposed fare restructuring, the Plaintiffs claimed that the MTA's expenditures for subway and light rail construction and its financial arrangements with the regional commuter rail service and suburban municipal

⁴⁰The argument is elaborated in a position paper by the L/CSC declaring that the deterioration of public transit is racially coded and must be addressed with an explicitly anti-racist perspective. According to the L/CSC, an anti-racist critique of transit begins by recognizing the class basis of racial discrimination: In urban centers the vast majority of the black and Latino communities are working class. In Los Angeles, transit dependent is synonymous with blacks, Latinos, Asians, and low-income whites, though the overwhelming majority of the transit dependent are black and Latino. L/CSC, *An Environmental Justice Strategy for Urban Transportation in Atlanta: Lessons and Observations from Los Angeles*, March, 2001, p. 5.

⁴¹Court's Findings of Fact and Conclusions of Law Re: Preliminary Injunction, September 21, 1994.

bus operations to the neglect of its own central city bus operations had a disparate impact on inner city bus riders. The end result, argued the LDF attorneys, was the creation of functionally, if not administratively, separate and unequal transit systems in which MTA minority bus riders were denied subsidies, service, and security equal to those provided to the riders on the other modes of transportation operated and/or funded by the MTA. In evaluating the Plaintiff s disparate impact arguments, it is important to recognize that they were not claiming, not could they, that *all* white riders received superior treatment to *all* minority riders. Rather, their argument was that minorities *as a group* on average received inferior transportation service compared to whites as a group. Much of the proof offered centered on the fact that higher bus fares would have a greater impact on poor riders, who were disproportionately members of minority groups, and that the quality of local bus service in central city areas was poor compared to the modern rail lines being constructed to carry suburban commuters downtown. The arguments focused on relative advantages and disadvantages instead of absolute differences. Clearly, not all central city residents are poor, nor do all minorities live in the central city. Some poor white transit riders would be burdened by the fare increases and some minority riders would benefit from the new subway and rail lines, but on the whole, Plaintiffs argued, poor minorities would suffer. The BRU in particular, viewed its campaign for transit justice as a struggle over issues of both class and race. From a legal standpoint, however, only racial discrimination is actionable, so the Plaintiffs litigation strategy had to focus on showing that the MTA policies had a disparate impact on members of minority groups.

Under Section 602 of Title VI⁴² agencies may adopt regulations establishing disparate impact standards.⁴³ U.S. Department of Transportation (DOT) regulations prohibit recipients of financial assistance from using any criteria or method of administration that has the *effect* of subjecting persons to discrimination because of their race, color, or national origin.⁴⁴ Even unintentional conduct is covered under this disparate impact standard. Among the examples provided in the regulations of prohibited conduct are discrimination in routing, scheduling or quality of service based on race, color or national origin.⁴⁵ The DOT may require recipients to take affirmative steps to prevent or remedy any such discrimination.⁴⁶ The Attorney General has reaffirmed this standard:

⁴²Section 602 provides in part: Each Federal department and agency which is empowered to extend Federal financial assistance. . . is authorized and directed to effectuate the provision of [§ 602] . . . by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. 42 U.S.C. §2000d-1. Pub . L. 88-352, Title VI, § 602, July 2, 1964, 78 Stat. 252.

⁴³In *Alexander v. Choate*, 469 U.S. 287 (1985) a unanymous Supreme Court restated the holding in *Guardians* that disparate impact violations could be addressed through regulations implementing Title VI:

In *Guardians*, . . . we held that Title VI had delegated to the agencies in the first instance the complex determination of what sorts of disparate impacts upon minorities constituted sufficiently significant social problems, and were readily enough remediable, to warrant altering the practices of the federal grantees that had produced those impacts.

469at 293-4.

⁴⁴49 C.F.F. § 21.5 (b)(2)

⁴⁵49 C.F.R. Appendix C to Part 21, (a)(3)(iii).

⁴⁶TCRP (1997b).

Enforcement of the disparate impact provisions is an essential component of an effective civil rights compliance program. Individuals continue to be denied, on the basis of their race, color, or national origin, the full and equal opportunity to participate in or receive the benefits of programs assisted by Federal funds. Frequently discrimination results from policies and practices that are neutral on their face but have the effect of discrimination. Those policies and practices must be eliminated unless they are shown to be necessary to the program's operation and there is no less discriminatory alternative.⁴⁷

Despite the rather fractured opinion in *Guardians Association v. Civil Service Commission*,⁴⁸ a majority of the Supreme Court unambiguously held intent was not required to show a violation of federal regulations that prohibit discriminatory effects.⁴⁹

⁴⁷Office of the Attorney General (Janet Reno), Memorandum for Heads of Departments and Agencies that Provide Federal Financial Assistance, July 14, 1994.

⁴⁸*Guardians Association v. Civil Service Commission*, 463 U.S. 582, 610-12, 77 L.Ed.2d 866, 886-88, 103 S.Ct. 3221, 3236-37 (1983); *Id.*, at 591-93, 77 L.Ed.2d at 874-76, 103 S.Ct. 3226-27; *Id.* at 617-23, 77 L.Ed.2d 891-96, 1-3 S.Ct. 3240-43 (Marshall dissent); *Id.* at 642-45, 77 L.Ed.2d at 907-10, 103 S.Ct. 3253-55 (Stevens dissent). Justice Stevens has termed *Guardians* a fractured decision. *Alexander v. Sandoval*, 532 U.S. 275, 298; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001).

⁴⁹Two justices held to the view that (perhaps as supplemented by interpretive administrative regulations) Title VI could also prohibit conduct that merely created discriminatory effects, while three justices felt that such a claim would have to arise directly from the administrative regulations. 463 U.S. at 591-93 (opinion of White), 77 L.Ed.2d at 874-76, 103 S.Ct. 3226-27; *Id.* at 617-24, 77 L.Ed.2d 891-96, 103 S.Ct. 3240-43 (Marshall dissent); *Id.* at 642-45, 77 L.Ed.2d at 907-10, 103 S.Ct. 3253-55 (Stevens dissent, in which Brennan and Blackmun joined). Justices White and Marshall agreed that Title VI itself barred disparate-impact discrimination. Justices Steven Brennan and Blackmun, concluded only that administrative regulations incorporating disparate impact standards are valid, as *Bakke* held that Title VI itself requires proof of discriminatory intent. As noted above Justices White and Marshall write separately in *Guardians* (continued...)

A majority held though, that only prospective relief was available but no claim for damages.⁵⁰ Only four justices would have denied any effect to the regulations, absent proof of intentional misconduct.⁵¹ Thus, in several opinions authored before the BRU filed suit against the MTA, the Supreme Court assumed that a private right of action existed to enforce disparate impact claims based on agency regulations such as these.⁵² However, in the case of *Alexander v. Sandoval*, where the Alabama Department of Public Safety's policy of administering state driver's license examinations only in English was challenged as having a discriminatory impact against non-English speakers, the Court in a 5-4 decision held that private parties could not sue to enforce U.S. Department of Transportation (DOT) disparate impact regulations.⁵³ Justice Scalia, writing for the majority, rejected the view that Congress had intended to imply a private cause of action

⁴⁹(...continued)

explicitly rejecting this interpretation of their opinions in *Bakke*. See also, *Alexander v. Choate*, 469 U.S. 287, 293 & nn.8-9 (1985).

⁵⁰Powell suggests that such a claim would have to be brought under 42 U.S.C. § 1983 since a claim brought under the implied right of action under Title VI would have to allege intentional misconduct.

⁵¹463 U.S. at 610-11 (Powell, Burger and Rehnquist, concurring); id. at 612-13 (concurring opinion of O'Connor). O'Connor noted that *Lau* was probably wrongly decided since she also read Title VI as limited to banning only intentional conduct., casting some doubt on the reach of administrative regulations:

If, as five members of the Court concluded in *Bakke*, the purpose of Title VI is to proscribe *only* purposeful discrimination. . . , regulations that would proscribe conduct by the recipient having only a discriminatory *effect*. . . do not simply further the purpose of Title VI; they go well *beyond* that purpose.

Id. at 613 (O'Connor, J., concurring in judgment).

⁵²For example, a majority of the Justices in *Guardians* appeared to endorse the view that private litigants could assert claims based on disparate impact regulations though they disagreed on the mechanism for enforcement.

⁵³*Alexander v. Sandoval*, 532 U.S. 275; 121 S. Ct. 1511; 149 L. Ed. 2d 517 (2001). See Appendix C for an extended discussion of the opinion.

for violation of regulations adopted pursuant to Section 602.⁵⁴

Had the MTA fare restructuring occurred after the decision in *Sandoval*, it is questionable whether the BRU lawsuit could even have been brought, at least as to the disparate impact claims.⁵⁵ Prior to *Sandoval*, environmental justice advocates viewed Title VI as an important vehicle for attacking unequal distributions of public resources in federal court. It may well be that with an eye over its shoulder at the potential for a surge of environmental policy litigation, a majority of the Supreme Court determined to stop such suits in their tracks. As it currently stands, absent evidence of discriminatory intent, civil rights advocates must rely on agencies like the DOT to enforce equal treatment regulations by administrative means including withholding federal transit funds. Given the current conservative climate in Washington, that may be asking much. Another alternative could be to sue under state anti-discrimination laws that permit private suits to enforce disparate impact regulations involving state funding. Despite the present difficulty in pursuing such claims, it is nevertheless useful to examine some of the ways

⁵⁴In his majority opinion, Justice Scalia assumed but only for purposes of deciding the case that agency regulations adopted under Section 602 could validly proscribe activities having a disparate impact on protected minorities. The question for the Court was then whether Congress had intended to imply a private right of action to enforce claims alleging violation of agency regulations separate from a claim of intentional discrimination available under Section 601.

⁵⁵Justice Stevens, in dissent, suggests that such actions could still be pursued against governmental defendants under the right of action provisions of 42 U.S.C. § 1983 (authorizing suits for violations of civil rights). At the time of this writing, there do not appear to be any cases successfully exploiting this strategy. Moreover, there is little indication in the opinion that a majority of the Justices would agree with Justice Stevens. In responding to the Court of Appeals request for additional briefing on the impact of *Sandoval* on the MTA's appeal, the BRU litigants pointed out that their suit had been filed under both Title VI and Section 1983. Plaintiffs' Letter Brief Pursuant to Court's Order on April 27, 2001, note 7 (May 11, 2001).

in which the parties to the MTA lawsuit framed the issue of discriminatory effects in public transit. At the very least, it could shed light on advocacy efforts at the administrative and legislative levels. The *Sandoval* decision, it is important to note, has not had any effect on the MTA's obligations under the Consent Decree. A fuller discussion of the decision is presented in Appendix C.

The first step in proving a Title VI case was to establish that the action in question had or would have a disparate impact on a protected racial or ethnic group.⁵⁶ A plaintiff alleging a violation of the DOT regulations had to make a *prima facie* showing that the alleged conduct had a disparate impact. The burden was on the moving party, the plaintiff, to establish that, minorities as a group, receive different treatment than whites. Once such a showing had been made, the burden shifted to the defendant to demonstrate the existence of a substantial legitimate justification for the alleged discriminatory practice. If the defendant sustained this burden, the plaintiff could still prevail by demonstrating that other less discriminatory means would serve the same objective.⁵⁷

As there had been little experience with Title VI claims, the courts generally

⁵⁶Defendants don't have the burden of proof or persuasion on this issue, however as the moving party, they could present evidence undermining this element of the plaintiffs' case.

⁵⁷*Georgia State Conference of Branches of NAACP v. Georgia*, 775 F.2d 1403, 1417 (11th Cir. 1985); *see also* *Larry P. v. Riles*, 793 F.2d 969, 982 n.10. (Slip op. p. 11).

looked to cases arising under Title VII of the Civil Rights Act of 1964⁵⁸ for guidance in formulating a disparate impact standard under Title VI.⁵⁹ Title VII covers all aspects of employment, including recruitment, hiring, promotion, discharge, classification, training, compensation, and other terms, privileges, and conditions of employment.⁶⁰

In the 1971 case *Griggs v. Duke Power Co.*,⁶¹ the U.S. Supreme Court held that, in addition to barring intentionally discriminatory actions based on race, Title VII covered hiring practices having a disparate impact on minorities.⁶² In other words, employment

⁵⁸Title VII, as amended by the Equal Employment Opportunity Act of 1972 and the Civil Rights Act of 1991, prohibits discrimination by employers, employment agencies, and labor organizations on the basis of race, color, religion, sex, or national origin. 42 U.S.C. § 2000e. Pub. L. 88-352, Title VII, § 701.

⁵⁹In applying the disparate impact test under Title VI, the courts and litigants have generally looked to the holdings under Title VII without considering the different purposes of the two laws. Title VII applies in an employment context and primarily to private employers. The business necessity test is meant, at least in part, to limit undue interference with profitable business behavior. In contrast, Title VI deals with governmental policies and programs that may have disproportionate impacts on minorities, often members of the very groups being served by the agency in question. Government agencies, such as public transit authorities, are not in the business of generating profits, but in providing a public service. The courts, however, do not appear to have drawn any distinction between for-profit activities and public services. Under the business necessity defense available to them under the 1991 Civil Rights Act, public agencies could conceivably offer any reasonable justification for practices producing disparate impacts even if those practices contradict the basic goals of the agency, provided they would qualify as a legitimate business decision if made by a private company. From a policy standpoint, it would not seem appropriate to tolerate the same degree of disproportionality when there is little risk of curtailing rational business practices, but rather diverting resources from the very people intended to be benefitted by those services.

⁶⁰U.S. Commission on Civil Rights (1981). Title VII applies to all federally assisted programs and to most private employers with 15 or more employees, labor unions with 15 or more members, and employment agencies. It also covers most federal, state, and local governmental employers and educational institutions. The Equal Employment Opportunity Commission (EEOC) enforces its provisions.

⁶¹401 U.S. 424, 432 (1971).

⁶²*Griggs* dealt only with objective employment criteria. In *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977 (1988), the Court applied the *Griggs* rule to subjective employment practices, though in her plurality opinion Justice O'Connor cautioned that the decision could tempt employers to adopt improper quotas or preferential treatment.

practices that more frequently exclude legally protected classes—minorities and women—are suspect. Even the absence of discriminatory intent will not save employment practices that operate as what the Court has referred to as “built-in headwinds” for minority applicants and which are not related to legitimate job qualifications.⁶³ Under *Griggs*, if the plaintiff shows that an employment practice, otherwise neutral on its face, creates a disparate impact, the company must then produce validation studies to prove it has a non race-based, legitimate business reason for the practice.⁶⁴ Even if the employer establishes that its employment tests are job-related, the plaintiff may still prevail by showing that less discriminatory alternatives are available.⁶⁵ The Ninth Circuit Court of Appeal, which covers California, has adopted the disparate impact standards that apply in Title VII employment discrimination cases.⁶⁶

⁶³In *Washington v. Davis*, 426 U.S. 229, 238-48, 48 L.Ed.2d 597, 606-12, 96 S.Ct. 2040, 2046-51 (1976), a case challenging the use of a verbal ability test by the Metropolitan Police Department in Washington, D.C. under the Fifth Amendment, the Supreme Court held, however, that the *Griggs* rule does not apply to cases alleging a constitutional, as opposed to a statutory, violation. The Court upheld the test despite the appearance of adverse impact, unless the plaintiff could prove intentional discrimination. Singer (1993); Jung and Wadia (1996). As noted above, the Court has applied this line of reasoning to restrict private lawsuits to enforce Title VI.

⁶⁴*Albermarle Paper Co. v. Moody*, 422 U.S. 405 (1975). In this case the Supreme Court tightened the standards for validation studies. Although the company had carried out the required scientific studies, the Court ruled that they did not comply with the stringent 1970 EEOC *Guidelines for Employment Selection Procedures*. These studies must show that the hiring tests are predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being selected. *Id.* at 431.

⁶⁵Braswell, Moore, and Shaw (1989). The Court also ruled that employers are required to validate any hiring tests they use in the recruitment process. If the tests cannot be validated, the employer can still demonstrate that the tests do not, in fact, produce a disproportionate impact. The potential difficulty of either producing expensive validation studies or proving that the practices in question were essential to its business, raised concerns that employers would adopt quota systems in order to avoid liability.

⁶⁶*Larry P. v. Riles*, 793 F.2d 969, 982 n.9 (9th Cir. 1984).

These standards were legislatively codified in the 1991 amendments to Title VII,⁶⁷ and the official policy of the Justice Department.⁶⁸ As interpreted by the courts, the starting point for a disparate impact employment analysis is the [i]dentification of the appropriate candidate pool and its racial [or ethnic or sexual] makeup. The appropriate sample population should consist of those most likely affected by the action at issue.⁶⁹ The best evidence of discriminatory impact is proof that a practice selects members of a protected class in a proportion smaller than their percentage in the pool or actual applicants, or . . . in the actual pool of eligible[s].⁷⁰ To meet its burden under this standard, the Plaintiffs attorneys presented numerical evidence to show that the MTA was spending far more on Metro Rail and Metrolink than on its bus service, though buses

⁶⁷42 U.S.C. § 2000e-2(k)(1)(A). The 1991 Civil Rights Act states that an unlawful employment practice under the Title VII disparate impact test is established if a complaining party demonstrates disparate impact and the employer fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity. According to the Act the term demonstrates means meets the burdens of production and persuasion. 42 U.S.C. § 2000c(m).

⁶⁸Memorandum from Attorney General Janet Reno to Heads of Departments and Agencies that Provide Federal financial Assistance, July 14, 1994, PX 27 (stating administrative regulations implementing Title VII apply not only to intentional discrimination but also to policies and practices that have a discriminatory effect.)

⁶⁹Moore v. Hughes Helicopters, Inc. 708 F.2d 475, 482 (9th Cir. 1983) quoting Barthodt, Application of Title VII to Jobs in High places, 95 Harvard L.R. 945, 970 (1982)..

⁷⁰*Id. Accord*, Larry P. v. Riles, 793 F.2d at 983. Once the plaintiffs establish a prima facie case of violation, the burden shifts to the defendant to demonstrate that the requirement is necessary. *Id.*, at 982 (quoting Connecticut v. Teal, 457 U.S. 440, 446-7, 102 S.Ct. 2525, 73 L.ED..2d 130 (1982), quoting Griggs v. Duke Power Co., 401 U.S. 424, 432, 91 S.Ct. 849, 28 L.ED.2d 158 (1971). If an employer does meet the burden of proving that its tests are job related, the complaining party can still prevail by showing that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in efficient and trustworthy workmanship. Such a showing would be evidence that the employer was using its test merely as a pretext for discrimination. *Albermarle Paper Co. v. Moody*, 422 U.S. 405, 425, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975); *Connecticut v. Teal*, 457 U.S. at 447 (even if defendant justifies adverse impact, plaintiff may prevail, if he shows that the employer was using the practice as a mere pretext for discrimination, citing *Albermarle*).

carried a higher proportion of minority and low income riders. They also insisted that there were no legitimate business justifications for raising fares since the agency's fiscal problems were the inevitable consequences of its own reckless action in pursuing a rail-at-all-costs strategy. They alleged the MTA has deliberately tied up discretionary bus-eligible funds to support rail construction bonds that could have been used for improving the efficiency and equity of the bus system. They also contended that the MTA had not conducted the equivalent of validation studies necessary to justify the rail program. Finally, Plaintiffs charged that the MTA ignored expert advice regarding less discriminatory alternatives to rail in a spread out area like Los Angeles. The MTA countered that they satisfied all the DOT disparate impact guidelines, that minority riders were adequately served, and that its fiscal problems were real.

In its defense, the MTA took issue with the assertion that the rail system would serve a primarily white ridership, countering that neither the PBL, nor any of the other Metro Rail lines would have predominantly non-minority ridership, presenting its own data showing that in fact twice as many minority as non-minority patrons would ride Metro Rail when it became substantially operational. The MTA also insisted that the fare restructuring was needed to cover increasing operating costs and that the decision to increase fares to \$1.35 resulted from an extensive, careful review of numerous alternative pricing levels and method of payment options.⁷¹ In addition, the MTA asserted that the

⁷¹Declaration of Dana Woodbury, November 10, 1995.

Plaintiffs lacked of any evidence that the fare restructuring would not have been necessary but for the plans to develop Metro Rail. What is interesting about the debate, aside from the differing uses of statistical comparisons, is the underlying spatial assumptions that each side's arguments embodied.

The MTA's litigation approach reflected a rather static model of geographic model of resource distribution. They framed the issue of discrimination as whether the agency's bus and transit services guaranteed *mobility* for its patrons to all parts of the region. This approach reflected how much the MTA system's wide geographic coverage mirrored the regional political structure of the agency itself. As discussed in previous chapters, policy debates at the MTA frequently focused on the equitable allocation of available funds to capital projects based on the geographic representation of Board members, rather than an objective assessment of transit need. Former MTA CEO Franklin White, in remarks to the Board on being forced out of his position, commented on the highly political nature of the Board:

[The MTA Board] is largely made up of . . . and I know this will be understood . . . elected officials, and an enormously large board . . . elected officials having their own individual agendas, with everybody wanting to have this organization produce for them something that will be good for

them in their next election.⁷²

White also explained how the MTA's original \$183 billion 30-Year Plan responded to that political pressure:

The old plan . . . had something for everybody. It was not a plan that came from the bottom up. It was not a plan that asked as the first question, what is our transportation problem. It was a plan that said what do we need to put in it to make various people happy so that we can get a vote for this plan.⁷³

While many of the staff planners working for the MTA were quite concerned about the negative impacts of MTA policies on transit dependent riders, and worked within the agency to improve bus service, nevertheless the MTA Board continued to favor dispersed rail and subway construction oriented toward longer distance suburb to central city trips. Their litigation strategy was designed to protect their legislative prerogatives.

The agency's attorneys argued that the fare increase was necessary to avoid further service cutbacks and preventing the MTA from delivering on the rail system it promised

⁷²Transcript of Franklin White's Comments Made in Open Session Regarding his Performance Appraisal, December 20, 1995, p. 3.

⁷³Transcript of Franklin White's Comments Made in Open Session Regarding his Performance Appraisal, December 20, 1995, p. 4.

to the voters. They insisted that since the MTA served minority areas and, given that its ridership was primarily minority, it could not possibly be guilty of racial or ethnic discrimination. Moreover, they argued the fare increase was non-discriminatory since it would affect non-minorities the same as minorities. The agency also maintained that it allocated spending according to federal and state rules and met all relevant federal standards for non-discrimination.

Plaintiffs, on the other hand, adopted an approach more concerned with *accessibility* for bus riders and focused on attacking the agency's fiscal policies, not necessarily its route choices. Plaintiffs contended that the MTA's fare policies and aggressive spending on rail projects adversely impacted minority bus riders and disproportionately benefitted white riders served by the MTA Red, Blue, and Green Lines, the MTA-funded Metrolink commuter rail service, and suburban bus operators. They charged that despite numerous recommendations to delay subway construction and increase bus service, the MTA refused to even consider changing its rail expansion plans or shifting funds to improve bus service. From their standpoint, this was not an issue of simply geographic coverage—whether or not there was nominal bus or rail service in minority areas—but how the agency was allocating resources between different types of service to different areas and how those policies were affecting the availability and quality of transit services to poor and minority residents. The Plaintiffs relied on evidence of disparities in bus and rail subsidies to argue the MTA was spending far too

much to attract more discretionary riders to rail service -- mostly suburban riders who had greater access to alternative means of transportation -- resulting in reduced service to inner city poor and minority riders who depended on city bus lines. While the MTA talked about geographic coverage areas and costs per mile, the Plaintiffs focused on getting the court to hear the voices of the bus riders and understand their distinct social spaces. They described a small cross-section of those who actually rode the buses as follows:

A makes \$800 a month and needs the bus to reach both of his jobs as a clerk and movie usher. Since he uses the bus ninety or more times a month, he will have to cut his clothing allowance and recreational activities.

B is a small shop keeper who uses the bus daily to get machine parts and raw materials. Without the pass he will lose business, customers and income.

C supports her two daughters as a dress maker on \$666 a month. Without her pass she will not be able to visit as many clients, get supplies as often or get to the swap meet as often as she needs to.

D is on AFDC and makes \$470 per month. D has \$45 in disposable income; without the pass, she will not be able to travel.⁷⁴

The differences in the spatial perceptions of the MTA and the Plaintiffs were quite clearly reflected in how they approached the legal issues in the Summary Judgment Motion. As the case progressed beyond the initial injunction stage, both sides in the litigation were also compelled to confront whether the quality of service received by minorities and non-minorities *as a group* was different given their differing likelihood to patronize buses compared to rail service. Each side began to develop more sophisticated ways to measure discriminatory impact. As a result, each side made arguments and offered data on the character of the service being provided to different groups on different modes. For the Plaintiffs the first step was to establish that the MTA's policies produced a disproportionate *effect* on the minority population. They developed evidence that the quality of service offered and the money spent to provide service to different groups of riders varied unacceptably. The MTA focused on demonstrating the extent to which bus and rail service reached many different groups of riders. In much of this analyses, the major question dividing the parties was: What is the appropriate standard to compare actual ridership to, the county population, a subpopulation related by proximity to that service, the population of existing transit riders, or some other *ideal* population?

⁷⁴Plaintiffs' Reply Memorandum in Support of Plaintiffs' Application for Preliminary Injunction, September 9, 1994. Individual names omitted.

Measuring Disproportionate Effects

In addressing the first prong of the three part test described above, the evidence offered concerning disparate impacts can be grouped into four categories: (1) systemwide model comparisons, (2) service area coverage, (3) corridor analyses, and (4) subsidy differentials.

1. Systemwide Modal Ridership Comparisons

Each side proposed ways to assess the level of minority ridership on the MTA system. Plaintiffs maintained that the proportion of minority riders on the Blue Line, the only portion of the light rail system then open, and that on the Metrolink commuter rail should be compared to the percentage of minority riders on the bus system. In contrast, the MTA insisted that using the criteria established by the FTA, the proportion of minority riders on MTA buses and the Blue Line should be compared instead to the proportion of minority residents in the County of Los Angeles, the agency's overall service area. The MTA argued that the county population was the appropriate unit of comparison because all county residents are *eligible* to ride MTA buses and trains.⁷⁵

⁷⁵Of course, those living outside L.A. are also eligible to ride the MTA buses and trains, so the argument is rather specious. What is really at issue is really how to define the general market area for the MTA.

Using the basic test developed in Title VII employment discrimination cases, the Plaintiffs first argued that since roughly 80 percent of the MTA ridership overall is minority, one would expect an 80 percent minority ridership on each of the various transit modes in the absence of any racial or ethnic headwinds. By contrast, as shown in Table 9.1, the minority ridership of the rail system was just 63 percent. The ridership of the approximately 18,000 daily riders of Metrolink, was only 28 percent minority, and the proportion of minority riders on the Santa Clarita route, which runs entirely within Los Angeles County and is effectively controlled by the MTA, was only 18 percent.⁷⁶ Ridership on the Long Beach Blue Line was 76.9 percent minority, but according to the Plaintiffs ridership was artificially high due the fact that the MTA subsidized its relatively low fares compared to express buses to attract riders.⁷⁷

⁷⁶Plaintiffs Revised Statement of Contentions of Fact and Law, October 24, 1996. In addition to the differences between buses and rail, there are racial disparities in ridership between local and express bus lines. An MTA survey of downtown riders in 1990-93 showed that minority riders accounted for 87 percent of local bus riders but only 64 percent of express bus riders. The figure for the county as a whole was 21 percent. As for the lines that the MTA spun off during reorganization, the majority of the ridership of the LADOT Commuter Express was white while that of the Foothill transit lines was 47 percent white.

⁷⁷While the Blue Line ridership was less minority than the buses that it replaced, the *number* of minority riders is comparable, as most former bus riders shifted over, and the new line attracted a substantial number of *new* non-minority riders. Should a business add new workers, that may not harm existing workers either, but unless they make those new jobs are available to all qualified applicants on an equal basis, they could be violating the law. But since bus *usage*, as opposed to hiring, is voluntary, unless the Blue Line somehow discouraged new minority riders, it might not be discriminatory. Whether existing minority users are disadvantaged depends on whether the new rail service is worse than, comparable to, or perhaps better than the previous bus service. Certainly, there is some argument over whether the Blue Line service is as convenient, or provides the same access as the buses it replaced. For instance, the buses made more frequent stops, and bus stops were located closer to residents' homes and travel destinations than the light rail. For many, a trip that would have been a few blocks on the bus, may now require a longer, more circuitous route. It may entail getting on a feeder line to reach a Blue Line stop, transferring to the rail car, getting off at a later stop and transferring again to another bus (or more) to reach a final destination. On the other hand, for those traveling all the way to the downtown, the Blue Line may be faster and more convenient. At least shortly after beginning operations, the Blue Line cars were newer, cleaner and better patrolled than the buses. Rider satisfaction, as measured by MTA surveys, was also fairly high among

(continued...)

Table 9.1. MTA Ridership by Line

	Santa Clarita	All Metrolink	Blue Line	All Rail	Bus
White	82%	72%	23.1%	36.9%	19.9%
Latino	7.5%	14%	28.7%	24.5%	46.8%
Black	3%	7.5%	39.0%	30.1%	21.4%
Asian	7.5%	6.5%	7.0%	6.9%	7.9%
Am. Ind.	-	-	1.2%	0.9%	1.6%
Other	-	-	1.0%	0.7%	2.5%
Total Non-White	18%	28%	76.9%	63.1%	80.1%

Source: Ethnicity of Transit Riders in Los Angeles County by Line and System, Reply Exhibits in Support of Plaintiffs Application for Preliminary Injunction, Exhibit 2, September 9, 1994, prepared by Ryan Snyder Associates, Inc., Transportation Planners.

The MTA rejected the ridership comparisons developed by the BRU s consultants, noting that the minority proportion of the population in Los Angeles County had grown dramatically over the previous decade, as shown in Table 9.2. With the sole exception of African Americans, whose numbers have declined slightly as a percentage of the county population, all other minority groups increased in representation between 1980 and 1990. The most dramatic gains occurred among Latinos, from about 27 percent to just over 36 percent. The non-Hispanic white population fell to less than half.

⁷⁷(...continued)
minorities and non-minorities.

Table 9.2. Population by Race and Ethnic Origin, Los Angeles County

Race/ethnicity	Population		
	1980	1990	Change
Non-Hispanic White	52.8%	40.8%	(12.0%)
African American	12.6%	11.2%	(1.4%)
Hispanic	27.3%	36.4%	9.1%
Asian American	5.8%	10.8%	5.0%
Native American	0.1%	0.5%	0.4%
Total	100.0%	100.0%	

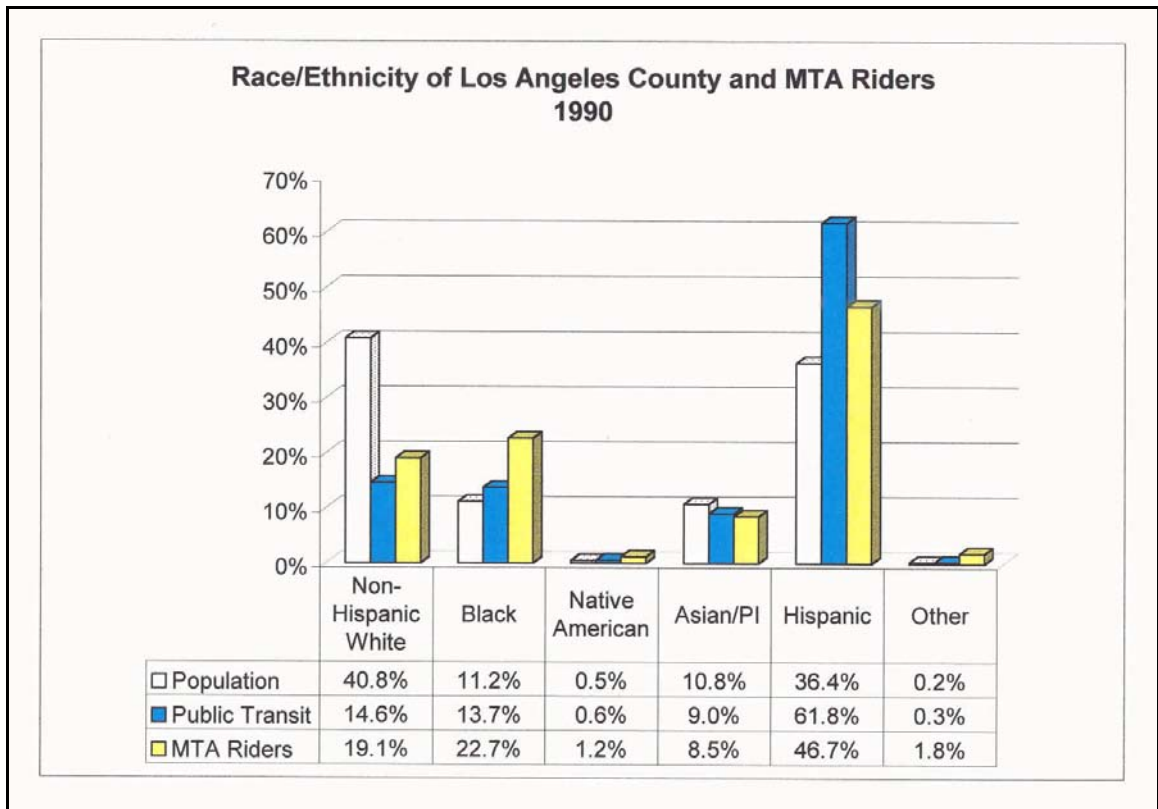
Source: U.S. Census, 1980, 1990.

Figure 9.1 shows the proportion of residents in the county who use transit by racial and ethnic group as reported in the 1990 U.S. Census compared to the proportion of minorities using the MTA based on bus company surveys. It is useful to compare the results from the survey with the data for transit use reported by the U.S. Census, however, the comparison is not exact since the census data include residents of the entire county who may use transit systems other than the MTA. Also unlike the U.S. Census which uses separate categories for race and ethnicity, the MTA surveys simply asked each respondent to identify his or her ethnic background as either white, Hispanic, black, Asian/Pacific Islander, American Indian/Aleutian, or other.⁷⁸ In addition, the census asks whether the respondent regularly uses transit to go to work while the

⁷⁸As a result, some Hispanic respondents may have identified themselves as white.

MTA survey covered both work and non-work trips. Nevertheless, it provides some indication of the accuracy of the survey results. For purposes of the comparison, 1990 U.S. Census data have been aggregated by classifying all persons identifying themselves as black, Asian/Pacific Islander, or American Indian/Aleut without regard to ethnic status, as African American, Asian American, and Native American, respectively. Those identifying themselves in the census as Hispanic and their race as either white or other race are classified as Hispanic. The remainder is made up of non-Hispanic whites and a residual category of non-Hispanic other (not shown).

Figure 9.1 Comparison of MTA Riders and County Population



Source: U.S. Census and Los Angeles MTA data.

The comparison indicates that the Census data and the MTA survey data are roughly comparable, although whites and African Americans make up a somewhat higher percentage of MTA riders than all transit riders in the county, while Hispanics and Asian Americans slightly less. With the minor exception of Asian Americans, system-wide the proportion of minority transit riders in all other cases exceeded that of county-wide transit

riders in general. At the time the lawsuit was filed 94 percent of all MTA transit users rode buses and 81 percent of those riders were nonwhite, although minorities comprised only about 59 percent of the county's population.⁷⁹ Among people of color, Latinos comprised 47 percent of MTA riders and African American were at 23 percent. The proportion of transit riders who were African Americans or Latino was greater than in the general county population while the number of Asian American riders was slightly less.

The MTA also argued for excluding any comparisons with the predominately white commuter rail ridership, maintaining that these riders were the responsibility of a legally separate agency, though all its funding for the portion within Los Angeles County came through the MTA, and at least initially the MTA controlled most of its functions. MTA lawyers based their argument largely on the discussion in the *SEPTA* case described above in Chapter Three, which involved not two separate systems, but two divisions of a single system.

The Plaintiffs' attorneys vigorously disputed that contention, pointing out that the situation here was very different because the MTA, at least initially, held a majority of the seats on the Metrolink Board of Directors, the MTA supplied the staff and office space in its new headquarters building for Metrolink, and supplied all the financial resources to operate Metrolink lines within Los Angeles County. By analogy to corporations law, the

⁷⁹MTA (1994). In addition, 60% of riders earned \$15,000 or less while 80% earned \$30,000 or less. Plaintiff's Proposed Findings of Fact and Conclusions of Law, November 12, 1994.

Plaintiffs insisted that the MTA exerted effective management control over the operation of Metrolink, asking the court to pierce the corporate veil and hold the MTA accountable for differences between the bus and commuter rail services. While there are some interesting legal principles that can be debated over whether doctrines protecting parent corporations from the tortious activities of subsidiary corporations should apply to separate governmental entities, even where both are essentially instrumentalities of state,⁸⁰ from a policy standpoint the issue is more one of how public funds are being expended regardless of the nature of the local institutional arrangements. If tax revenues are being applied in a racially disproportionate manner to create a two-tier public transit system, it should not matter whether the state government has created two nominally separate entities to preside over each part of the system.⁸¹

⁸⁰Courts can and do recognize the integrity of different political jurisdictions. See, for example, *Millikin v. Bradley*, where the United States Supreme Court refused to order cross district busing absent proof that suburban school districts had contributed to racial segregation in inner city schools. The Court rejected arguments that the State of Michigan had organized the state school system into legally separate districts to facilitate a policy of racial segregation. Compare this outcome, on the other hand, with the ruling by the New Jersey Supreme court in the well known *Mt. Laurel* case, that local jurisdictions had to provide their fair share of the state's need for low and moderate income housing since their authority to enact local zoning derived from the state and that therefore its exercise must serve the welfare of the entire state, not just the interests of the local municipality.

⁸¹There are, obviously, some legitimate questions over the degree of control exercised by one agency over another, but for purposes of discussion here no distinction is being made between the legal status of the MTA and the RCC. This is appropriate since other urban areas facing similar conflicts between bus and rail development, may or may not have similar arrangements with regard to a division of authority between bus and rail operations, so the particular situation in Los Angeles between the MTA and the RCC may not be particularly instructive.

2. Service Area Coverage

The MTA defended its transit service as fully compliant with DOT regulations. To ensure that grantees meet their obligation to provide equal service to minority and non-minority passengers, the DOT requires them to prepare triennial Title VI compliance reports.⁸² The FTA's Title VI implementing circular requires public transit grantees to perform fixed facility impact analyses for all construction projects to assess the impacts on minority and low-income communities.⁸³ Additionally, public transit providers with service area populations of 200,000 or more must describe and establish monitoring procedures to ensure that service levels and quality do not discriminate against people living in minority communities. These requirements include submitting demographic and service profile maps, overlays, and charts which identify:

- A. each census tract by number or traffic analysis zone (TAZ);

⁸²49 C.F.R. § 21.9 (b).

⁸³The impact analysis must include the following:

- A. A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
- B. A discussion of all potential negative environmental impacts, such as noise, air, or water pollution;
- C. A detailed list of minority-owned businesses and households that will be affected by the construction project;
- D. A description of other significant changes or impacts on the minority community, such as increased traffic, reductions in the amount of available parking, etc.; and
- E. A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.

Title VI Program Guidelines for Urban Mass Transportation Administration Recipients, UMTA (now FTA) Circular C 4702.1, May 26, 1988, ¶ III.2.f.

- B. major streets and highways;
- C. fixed transit facilities, including rapid rail stations, fixed transit guideways, maintenance and garage facilities, and administrative buildings;
- D. major activity centers or transit trip generators, such as the central business district, outlying high employment areas, schools and hospitals.⁸⁴

Figure 9.2 depicts the minority census tracts in Los Angeles County. The overlay maps and charts must show the total minority population for each census tract of TAZ and the minority percentage of the tract or zone. Another overlay should show all transit routes, including rail lines in the service areas, with origins and destinations, type or service, and time of service. The report must be accompanied by a chart showing the total population and the number and percent of each minority group (black, Hispanic, Asian, Native American) within each zone or tract, and, at a minimum, establish service policies and standards for the following service indicators:

- A. vehicle load⁸⁵
- B. vehicle assignment
- C. vehicle headway
- D. distribution of transit amenities, and

⁸⁴UMTA Circular C 4702.1, ¶ III.3.a (1)(c).

⁸⁵Vehicle load, or load factor, is expressed as a ratio of the number of seats on a vehicle to the number of passengers, and is an indicator of possible overcrowding.

E. transit access.⁸⁶

For each minority census tract or zone, the transit agency must summarize the travel patterns of transit users and compare quality of service with that in non-minority tracts.⁸⁷

All grantees are required to establish monitoring procedures to ensure compliance with Title VI. At a minimum, the agency must evaluate the transit service being provided to all minority tracts or zones against the agency's stated service policies and standards. It must also compare the average performance for each route in the transit system to those policies and standards. It must also conduct a survey of transit riders in these areas to determine their travel patterns and opinions about the service. Finally, the agency must monitor the top three travel destinations in the region in terms of the (1) average peak hour travel time to the destination from the sample minority and non-minority tracts or zones, (2) the number of transfers needed to reach the destination, (3) the cost of a trip to the destination, (4) and the cost per trip-mile to the destination.⁸⁸ In addition to the foregoing, federal grantees also must describe efforts to encourage minorities to participate on transit decision making bodies in order to ensure that such boards reasonably reflect the racial/ethnic composition of the community affected by the transit

⁸⁶UMTA Circular C 4702.1, ¶ III.3.d (2). Transit access is measured by the average distance a person in a given zone must travel to gain access to transit service.

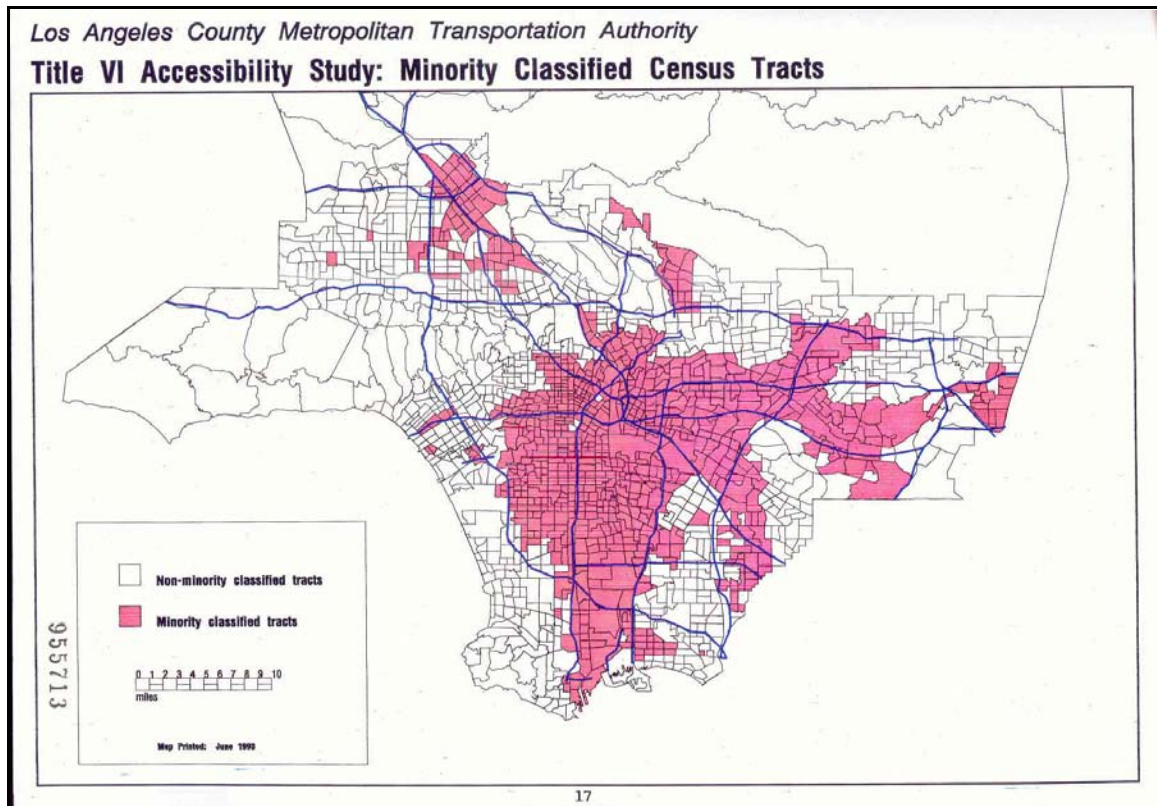
⁸⁷UMTA Circular C 4702.1, ¶ IV.2.c.

⁸⁸UMTA Circular C 4702.1, ¶ I.3.h.

program.⁸⁹

⁸⁹UMTA Circular C 4702.1, ¶ IV.3.a (4)(c). See also, U.S. Department of Transportation, Proposed Environmental Justice Strategy, February 13, 1993.

Figure 9.2. Minority Census Tracts in Los Angeles County



Source: MTA Title VI Assessment for Capital and Operating Assistance, Triennial Update, 1993 (revised), July 1994, p.17.

The MTA insisted that its operations were not discriminatory since a majority of its ridership was minority and most of its buses and rail lines served (or at least passed through) predominately minority areas. DOT rules provided that any bus line that had 1/3 of its route mileage pass physically through a minority area with a minority population greater than the proportion in the agency's service area would be considered a minority

bus line for reporting purposes.⁹⁰ This standard applies regardless of whether or not the line carries any minority riders. On that basis, the MTA classified most of its local lines⁹¹ and a number of express routes serving primarily non-minority commuters as minority routes (see Figure 9.3). Moreover, the Pasadena Blue Line qualified as a minority line according to the FTA guidelines, as did the Red, Green, and Blue lines.⁹² That all these rail projects would primarily serve minorities areas, gave the defense grounds to reject the Plaintiffs claim of discriminatory service. Plaintiffs, however, noted that the definition says little about who actually rides transit, and that lines with few minority riders could be classified as minority lines, while some lines labeled non-minority actually carried a more minority riders than non-minorities.⁹³ The MTA therefore also conducted a Corridor Analysis to establish that its individual bus and rail lines would serve minority transit users.

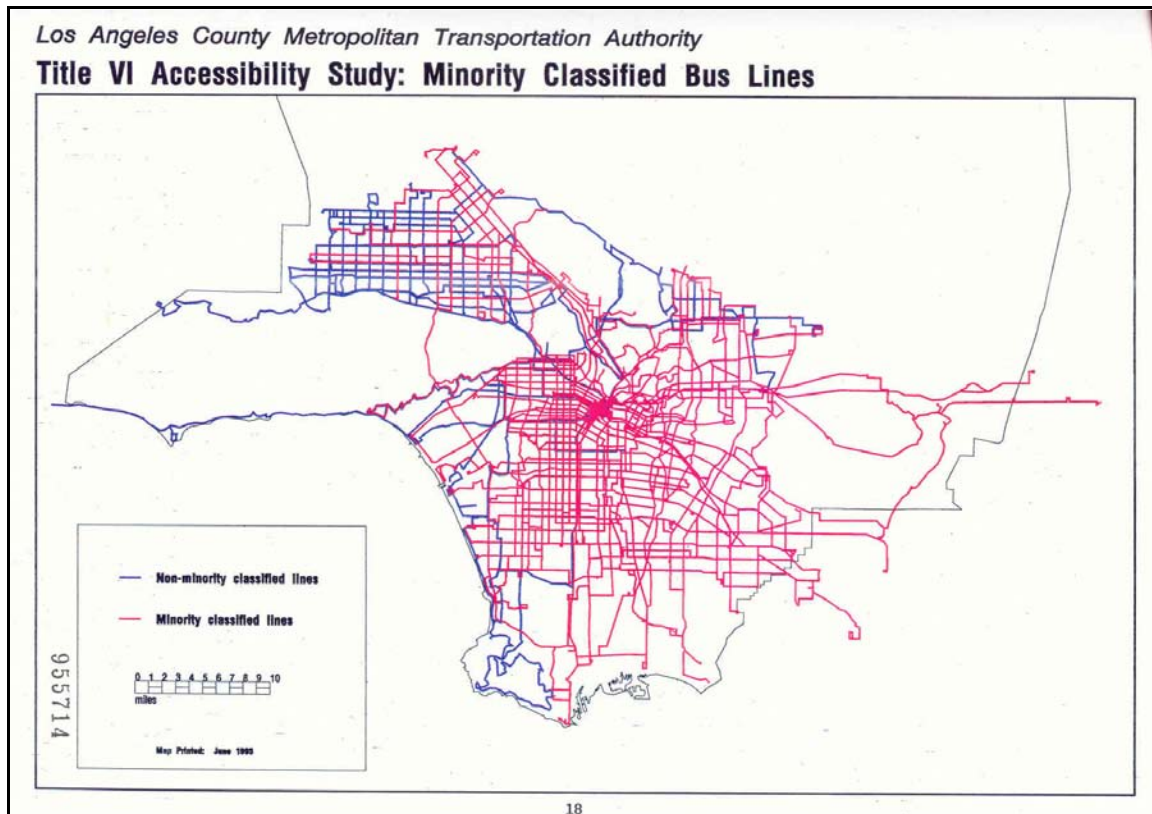
⁹⁰Title VI Program Guidelines for Urban Mass Transportation Administration Recipients, UMTA Circular C 4702.1, May 26, 1988, p. IV-2, ¶ IV.

⁹¹The exceptions included some lines running in the Beach Communities, and in the San Fernando Valley and San Gabriel mountains.

⁹²Declaration of Keith Killough, November 10, 1995.

⁹³For instance, the 457 Freeway Express had an 80% white ridership but was considered a minority line since it passed through minority areas on its freeway run to downtown.

Figure 9.3. Los Angeles MTA Minority Bus Lines



Source: MTA Title VI Study, p. 28

3. Corridor Analyses

MTA's Corridor Analysis used census data and an 8-mile buffer surrounding Metro Rail lines to create a profile of potential riders. The technique was borrowed from labor market studies used in some Title VII employment discrimination cases. The

decisions in analogous employment discrimination cases suggest that the appropriate comparison population is those persons available and qualified for the particular job in question. For example, if a company advertised for pipe-fitters the first step would be a comparison between the percentage of minorities in the hiring pool and the percentage of minorities among all qualified pipe-fitters within a reasonable commuting distance (not necessarily the population in general or even among all workers). This would determine whether there was any disparate impact in the recruitment process. The next step would be to examine whether, from the given pool of applicants, the company's practices resulted in a disproportionately low number of qualified minority applicants actually being hired. The MTA analogized from these inquiries to construct both threshold and usage tests in the transit context.⁹⁴

The MTA's threshold analysis compares the percentage of minorities in a transit corridor served by a particular rail or bus line, to the percentage of minorities in the county, the service area of the MTA:

$$(1) \quad X = \frac{\% \text{ minority served}}{\% \text{ minority in county}}$$

Again, this exercise is intended to be somewhat analogous to defining the labor pool from which employers draw candidates for employment. If a minority person has roughly

⁹⁴For a discussion of the use of statistics in employment discrimination cases, see Paetzold and Willborn (1996).

the same chance of being considered for a job as the make up of the eligible workers in the local labor market, then there is no disparate treatment.⁹⁵

A survey of Blue Line riders was used to collect data on place of residence. The distance cutoff was selected by sorting survey responses by distance from the line and totaling them until they represented 95 percent of the total.⁹⁶ Approximately 73 percent of the population in the test corridor around the Blue Line was minority, higher than the county wide average of 59 percent. Comparison was also made to the Blue and Green Lines together, as the Green Line was the next line scheduled to open and connects to the Blue Line. The threshold minority population for the combined lines was 69 percent, again higher than the county as a whole. The addition of the Pasadena Line brought the complete system total down to 67 percent, still above the county percentage. Within 8 miles of the MTA's bus lines, roughly 61 percent of the population was minority.⁹⁷ The MTA did not offer a comparison for Metrolink.

In order to test accuracy of the MTA's analysis, 1-mile and 8-mile buffers were

⁹⁵The differences could be attributable to hiring policies or practices that restrict job eligibility such as test scores, or educational levels. In the transit case, it is essentially the routing decision.

⁹⁶Thus the 8-mile buffer captured 95% of the effective service area of the Blue Line. A wider buffer would contribute no more than 5% to the total. The technique had been used previously to establish boundaries within which potential job applicants could be expected to reside. Declaration of Richard Biddle, October 12, 1994.

⁹⁷This threshold analysis produced a bus service area covering all but roughly 5 percent of the census tracts in the county. Declaration of Richard Biddle, October 12, 1994, p. 33. The results are not surprising in that outlying areas of the county have relatively low minority populations.

constructed around the Blue, Green, and Pasadena Line stations, as well as Metrolink, using Arcview!" GIS software, and the proportion of minority residents in the population within the buffers was calculated by census tract from 1990 U.S. Census data. The results for the 8-mile buffer agreed closely with those produced by the MTA, providing additional validation to the results. This analysis further showed that the 1-mile corridor surrounding the Blue Line actually contained a higher proportion of minority residents than either the Green Line or the Pasadena Line. In terms of the threshold analysis, the 1-mile corridor actually produced higher minority percentages for the Blue Line and the Green Line, and the complete system, though not the Pasadena Line, than the MTA figures. The larger buffer used by the MTA obviously makes it appear that a greater proportion of the minority population in the county will be served by transit. By either set of figures, though, the urban rail system will likely have proportionately fewer minority riders than the bus system.

Table 9.3. Minority Population in Transit Corridor

	Bus	Blue Line	Green Line	Blue & Green Lines	Pasadena Line	Complete System	Metrolink
Actual Minority Ridership	78.1%	75.9%					22.9%
1 Mile Corridor	62.3%	87.6%	78.6%	82.6%	69.8%	79.6%	60.4%
8 Mile Corridor		74.7%	70.9%	69.1%	77.3%	67.7%	62.2%
MTA Corridor Estimate	61.3%	73.5%		69.1%	77.5%	67.3%	
County	59.2%	59.2%	59.2%	59.2%	59.2%	59.2%	59.2%

Sources: Defendants Declaration of Richard Biddle, October 17, 1994; 1990 U.S. Census Data (calculations by author).

The Plaintiffs offered a number of technical objections to the MTA's analysis. First, transportation planners typically use a ¼ to ½ mile radius surrounding transit stops for analyzing local patronage.⁹⁸ Even if every proposed line in the system were built, they estimated that only 11 percent of the county population would be within ½ mile of a station.⁹⁹ They also pointed out that, assuming that rail lines do attract transfers from

⁹⁸Second Supplemental Declaration of Brian Taylor, January 9, 1995.

⁹⁹First Supplemental Declaration of Thomas Rubin, October 11, 1994.

buses and thus have a wider service capture area,¹⁰⁰ a gravity model that rates likelihood to use the system by distance from stations would be better than a 1-mile, 8-mile, or any other arbitrary cutoff. This would provide a more accurate estimate of likely ridership. Second, estimates of likely transit patronage should take account of the demographic characteristics of the population, not merely distance to a transit stop (see item #3 below). Third, bare ridership comparisons give little indication of relative differences in actual service levels (see item #4 below).¹⁰¹ Again, the MTA's analysis reflected more of a static, inanimate geographic approach compared to that of the Plaintiffs, who concentrated on how riders, especially transit dependents, actually use public transit systems in their daily lives.

Granting the approach is somewhat analogous to the Title VII employment cases, it nevertheless ignores critical spatial dimensions of transit use. Even if the entire county population could be considered equivalent to the job qualified portion of the labor force simply because all county residents are eligible to ride transit, the exercise proves little. The MTA demonstration showed that the effective bus service area (practically the entire populated area of the county), was not significantly less minority than the county itself, a point not disputed by the Plaintiffs. As for the rail lines, here too, the analysis shows little more than most of the Metro Rail lines are not too far physically distant from

¹⁰⁰The MTA claimed persons will travel farther to access rail than buses. Presumably those persons living more than a mile from the Blue Line used some form of transportation other than walking.

¹⁰¹Second Supplemental Declaration of Brian Taylor, January 9, 1995.

minority areas, again not a disputed point. The real issue was the number of poor and minority residents who would actually be able to use the system, not that the rail lines should have been located somewhere else. Moreover, just because a given percentage of residents in the corridor are minority certainly does not mean that the ridership is. As the Plaintiffs put it, census tracts don't ride buses.

The MTA also conducted what it termed a usage analysis, intended to be similar to asking the question who actually is hired? Are minorities hired in rough proportion to their presence in a given applicant pool? Here the MTA compared the actual minority ridership on the bus system and rail lines to their proportion in the applicable corridor, the pool as it were.

$$(2) \quad X = \frac{\% \text{ minority on buses/rail}}{\% \text{ minority in corridor}}$$

The MTA reported that on the whole minority ridership exceed that in each corridor. Though not calculated by the MTA, by contrast the Metrolink commuter train service has fewer minority passengers than that in either the corridors that it passes through within the county, or the county as a whole.

Unlike the typical employment context, however, the MTA does not regulate who may or may not ride one of its buses or trains. Patronage is a voluntary act of self-

selection by the bus or rail passenger. The MTA's involvement is only indirect in terms of where, when, and what kind of service they offer. There is no separate step akin to hiring from a pool of applicants as ridership is basically determined by the routing and service determinations. In practical application, then, (2) really collapses into (1). There are other problems with the MTA's approach. For one thing it assumes that since anyone who chooses to may ride transit, all county residents should be included in the comparison group. The fact is, however, that not all county residents need to ride the bus and clearly not all do. The transit dependent population is both significantly poorer than the population of choice riders and more likely to be minority (see Chapter Three). Therefore, the income and racial profiles of the ridership on either the buses or urban subway systems would be expected to contain more poor and minority riders than the population in general.¹⁰² A reasonable argument can be made, therefore, that the appropriate comparison should be drawn between the existing ridership and those with a reasonable propensity to use transit.

To make a closer analogy to the employment situation, this subpopulation would be more qualified to ride transit, like trained pipe fitters would be more eligible for those jobs than the general population, or even the larger population of construction

¹⁰²Hazelwood School District v. United States, 433 U.S. 299, 307-308 (1977). When special qualifications are required to fill particular jobs, comparisons to the general population (rather than to the smaller group of individuals who possess the necessary qualifications) may have little probative value. Id., at 308, n.13.

workers.¹⁰³ Were one to recalculate the figures in the above table based on factors that identify transit dependents, they would no doubt produce even larger expected minority percentages, more in line with actual ridership. Only if the actual proportion of minority riders was significantly less than the expected percentage, though, would it be possibly meaningful. Equation (1) by itself says little about disparate impacts since it does not even identify likely transit riders. Equation (2) also adds little, since the ridership on any particular line will most likely reflect the composition of the areas it runs through, with poor and minority residents being more likely to ride transit; only significant departures in the opposite direction may well raise red flags.

Perhaps in response to some of the Plaintiffs' criticisms, another of the MTA's experts, Peter Stopher, employed trip modeling software to better estimate the proportion of minority riders for each rail line in the proposed system in the year 2015, the final year of the MTA's 20-Year Long Range Plan, when the entire system was supposed to be

¹⁰³In *Wards Cove Packing Co. v. Atonio* (1989), the Supreme Court rejected a disparate impact discrimination charge under Title VII where the plaintiffs, nonskilled minority workers employed in cannery jobs, sought to show that few minorities were hired by the company for its higher paying, noncannery skilled positions. The Court ruled that racial disparities in different segments of the work force is not alone sufficient proof of discrimination. Proof of discriminatory impact has to be made in the context of the general work force or labor market for the particular job in question, though, the Court added:

As long as there are no barriers or practices deterring qualified nonwhites from applying for noncannery positions . . . if the percentage of selected applicants who are nonwhite is not significantly less than the percentage of qualified applicants who are nonwhite, the employer's selection mechanism probably does not operate with a disparate impact on minorities. 109 S.Ct. at 2123.

completed.¹⁰⁴ The approach was more sophisticated than the rather clumsy corridor analysis conducted by Biddle. Since it projected future ridership based on the demographic characteristics of the transit corridors, it essentially combined both the threshold and usage approaches into one.

Stopher used two methods to calculate ridership. The first method estimated line by line ridership for each traffic analysis zone (TAZ) in Los Angeles County based on future population projections from the California Department of Finance. The ethnic populations of each TAZ were used to infer rail ridership by ethnic group, adjusted for differences in car ownership. Two different classes of trips were estimated: (1) rail trips accessed by walking and/or bus, and (2) rail trips accessed by automobile. The ethnic populations of each TAZ were used to allocate the projected number of trips in the first category to either White (non-Hispanic), Black, Hispanic White, American Indian, Asian/Pacific Islander, or Other Race.¹⁰⁵ For those trips in the second category, the ethnic breakdown of only those households with access to at least one vehicle were used. The results are reproduced in Table 9.4. For each line, more minorities than non-minorities were expected to ride on Metro Rail, and the projected total minority ridership exceeded

¹⁰⁴Declaration of Peter R. Stopher in Support of Defendants Motion for Summary Judgment or, in the Alternative, Summary Adjudication, November 9, 1995.

¹⁰⁵Only those persons identifying themselves as White and Hispanic were all classified as Hispanic; those identifying themselves as Black, American Indian, Asian/PI or Other Race and Hispanic, were all assigned to the respective race category. The ethnic categories here differ slightly from those described above, in which Hispanic-Other Race was combined with Hispanic-White.

the 1990 Census minority population for the County.¹⁰⁶ Individually, the Red Line, Pasadena Blue Line (now Gold Line), Glendale/Burbank Blue Line, and Red Line Extensions, were not expected to serve as many African Americans as in the County, while the Long Beach Blue Line and Green Line were expected to have lower number of Asian and Hispanic Whites (as shown by the shaded boxes). Stopher also conducted a more complex analysis that took account of the differences in trip generation and mode choice characteristics of the particular ethnic groups in each TAZ, though the overall results were substantially similar. He did not, however, conduct any analysis of Metrolink ridership.

Even according to the Stopher s conservative estimate, 68 percent of Metro Rail riders would be minorities, including approximately 12 percent African Americans, 18 percent white Hispanics, 12 percent Asians or Pacific Islanders, and 25 percent other races, predominately non-white Hispanics. The Long Beach Blue Line would be 71 percent minority, the Green line 72 percent minority, and the Red line 66 percent minority.¹⁰⁷ Even the Pasadena Blue Line would initially serve a ridership of around 63

¹⁰⁶The ethnic proportions for each TAZ were assumed to be the same for 2015 as in the 1990 Census. The total minority population of the County was expected to increase from 58.1% to 75.0% over that time period, however, the state s projections did not provide any estimates of the spatial distribution of future population by ethnicity to permit a comparison. The MTA recognized that the redistribution of population relative to the fixed system could change the ethnic composition of its ridership somewhat.

¹⁰⁷These figures probably underestimate the extent of the deviation since the pre-existing bus ridership in these rail corridors was higher than the system-wide average, by as much as 95% .

percent minority.¹⁰⁸ Each of these exceeded the overall minority population of 59 percent in the county.

Table 9.4. Projected MTA Rail Ridership by Race/Ethnicity

	Black	Hispanic White	Asian/PI	Other	Total
All Rail	11.8%	17.8%	11.8%	25.8%	67.8%
Blue Line	18.9%	14.8%	8.5%	29.3%	72.0%
Pasadena Blue Line	7.9%	18.7%	14.2%	21.3%	62.6%
Red Line	8.1%	19.7%	12.2%	25.7%	66.3%
Red Line Ext	9.8%	18.4%	12.5%	24.8%	66.0%
Green Line	23.7%	13.9%	7.8%	26.4%	72.2%
Glendale/ Burbank Line	7.5%	19.3%	14.0%	22.2%	63.5%
LA County Population	11.3%	15.6%	10.5%	20.3%	58.1%

Source: Declaration of Peter Stopher, Exhibit 11, October 24, 1995. Note: Total includes American Indian which was estimated the same for each rail line as the county population proportion of 0.5%.

Plaintiffs, however, asserted that these figures also deviated significantly from the expected norm based on the overwhelming proportion of bus riders. In other words, the

¹⁰⁸Declaration of Peter R. Stopher in Support of Defendants Motion for Summary Judgment or, in the Alternative, Summary Adjudication, November 9, 1995.

observed differences in ridership between bus and rail in the figures were not random. They calculated that the estimated minority ridership on the Blue Line was 43 standard deviations¹⁰⁹ from the mean minority ridership on the MTA system and that minority ridership on the Metrolink was 173 standard deviations less than the mean (see Table 9.5). Plaintiffs pointed out that the courts have, in the employment and other contexts, adopted a rule that any variation between the proportion of minorities chosen, and the proportion of minorities in the comparison pool greater than two or three standard deviations would be suspect.¹¹⁰ The MTA countered that small ridership differences between transit lines or modes, even if statistically significant, should not establish a *prima facie* case of discriminatory impact. The MTA explained it was not claiming that the disparities were not statistically significant, just that not all statistically significant

¹⁰⁹The standard deviation is a measure of the likelihood that a sample statistic differs the true value in a population:

$$\sqrt{\quad}$$

The calculation takes into account sample size; the larger the sample the less likelihood that the value obtained is due to random error. A standard deviation higher than three indicates a 99% probability that the result is not due to random fluctuations in measurement. In other words, if the proportion of minorities workers hired for a particular job is less than three standard deviations from the proportion of minority workers eligible for employment, courts have been willing to conclude that there is evidence of disparate effect in hiring. For values less than three, courts have presumed that the differences could have simply been due to chance - the luck of the draw, in other words.

¹¹⁰*Castaneda v. Partida*, 430 U.S. 482, 497, n.17, 51 L.Ed.2d 498, 97 S.Ct. 1272 (1977). *Castaneda*, a 5-4 decision by a sharply divided court that redressed substantial underrepresentation of Mexican-Americans on a grand jury (see 430 U.S. at 494). Unlike the situation there, the MTA claimed it could not control or predict ridership precisely in the way the government had complete control over jury selection. While the MTA has some influence, through its planning process, who its riders will be, the agency insisted it was indirect and less precise than in *Castaneda* since the decision was ultimately the potential riders'. Defendants' Statements of Facts and Law, August 2, 1996, p. 51.

differences should be considered substantial.¹¹¹ Frankly, it is not all that clear how Plaintiff s calculated their standard deviation measure. Normally, the procedure is used to estimate the likelihood that a sample mean differs from an expected or true mean value for the whole population. In this case, the Plaintiffs apparently assumed that ridership on all transit modes hypothetically should be the same as that on buses. The Plaintiff s sampling procedure merely shows that not to be the case. The magnitude of the standard deviation is really beside the point, except to indicate the relative certainty of that conclusion. There was no real dispute that minority ridership on buses was higher than on other modes. The real issue was whether there was a reasonable basis for such differences.

¹¹¹Defendants' Statements of Facts and Law, August 2, 1996, p. 51. As interpreted by the MTA, *Castaneda* said two or three standard deviations would be suspect to a social scientist, not that violations should be measured in standard deviation units.

Table 9.5. Metro Rail Minority Ridership

	Percent Minority	Standard Deviations
Bus	80%	
Long Beach Blue Line	71%	43
Green Line	72%	22
Red Line	66%	47
Pasadena Blue Line	63%	79
Metrolink	28%	173

Source: Plaintiffs Revised Statement of Contentions of Fact and Law, October 24, 1996.

4. Subsidy Differentials

Plaintiffs argued that even if the composition of transit riders matched the demographics of the surrounding service area, the amount of service consumed by minority and nonminority passengers varied. First, they suggested that minorities paid a higher proportion of the cost to provide service since they tended to travel shorter distances, on average, and take more off-peak trips. Thus, the cost of providing transit service to minorities as a group was less.¹¹² Conversely, they paid a higher proportion of the cost of their trips at the farebox. Second, they pointed out that minority riders were subjected to far more crowding on the buses they rode, than either white bus riders, or

¹¹²Declaration of Brian Taylor, January 9, 1995.

riders on Metro Rail and Metrolink.¹¹³

Studies carried out by the Plaintiffs' experts of subsidy differences by race/ethnicity between bus riders and rail transit riders and between express and local bus lines, found that since rail riders received a greater subsidy than bus riders, and those making longer trips receive even higher subsidies, minority riders, as a group, paid more for MTA services and received lower average taxpayer subsidies than white riders as they were less likely to take longer trips or use rail. They also examined subsidy differentials between minority and non-minority bus lines. The average passenger fares on the non-minority bus lines covered only 29 percent of the \$2.13 total operating costs, whereas the average fare on minority bus lines cover 39 percent of the \$1.60 total operating costs. On the Vermont line, the most heavily used and thus the most cost-effective from the MTA's standpoint, the fare covered a full 57 percent of the \$0.90 cost. In addition, many lines exceeding the agency's 145 percent of seated load capacity benchmarks, or more than 62 persons on a standard 43 passenger bus.¹¹⁴

To further examine the impact of MTA fare policies on minority riders, the experts used data from the MTA's 1991, 1992, and 1993 On-board Origin-Destination

¹¹³Declaration of Thomas Rubin, September 20, 1994.

¹¹⁴Declaration of Thomas Rubin, September 20, 1994.

passenger surveys.¹¹⁵ These surveys represented the three most recent years available when the analysis was undertaken. The experts assumed that actual ridership demographics were consistent over the three year period and combined all three years worth of data into a single data base of 16,021 respondents who provided information on their race/ethnicity.¹¹⁶ Response rates varied between lines, and not all lines contained data for all three years.

The combined data indicated that MTA ridership over the period was about 76 percent minority, 22 percent white, and 2 percent other. Measured by mode, only 20 percent of local bus riders were white, compared to 24 percent of Blue Line patrons and 29 percent of express bus riders. As shown in Table 9.6, subsidies on the Blue Line and express buses far exceeded those for regular buses. Passengers paid an average of \$0.21 per mile to ride the bus, \$0.14 per mile for express buses and \$0.10 per mile for the Blue Line.¹¹⁷

¹¹⁵ A total of 17,616 surveys were obtained from riders during these three years. Data from all three years was combined and then disaggregated to obtain these figures {Luhrsen & Taylor 1997}.

¹¹⁶The MTA survey did not formally differentiate race and ethnicity but asked respondents to identify themselves as either white, Hispanic, black, American Indian, or other. There is a possibility that some Latino survey respondents identified themselves as white rather than Hispanic. Since the survey was only distributed in English and Spanish, it may have also underrepresented (a) the growing numbers of Asians and other ethnic groups, and (b) those taking shorter trips who tend to be disproportionately minority, and did not have time to complete the surveys.

¹¹⁷Luhrsen & Taylor (1997).

Table 9.6. Subsidy by Boarding by Mode

	Subsidy	Fare	%W hite
Bus	\$1.25	\$1.35	20%
Express Bus	\$2.53	\$1.85	29%
Blue Line	\$11.25	\$1.35	24%

Source: Taylor, et al. (1995), p. 16, Table 2.

Information on total weekday boardings on each line for each year was used to determine a weighted average percentage minority ridership for each line. Two different types of analysis were performed. First, a comparison of different subsidies for the typical white and typical minority rider using survey data on average trip length and mode usage by race/ethnicity. Second, a comparison of average subsidies on the 25 bus lines which the highest minority ridership and the 25 lines with the least minority ridership.

The data indicated that whites were more likely to use express buses and the Blue Line than buses. Buses received the lowest subsidy per passenger boarding followed by the Blue Line and express buses. By multiplying the total number of boardings by white riders on each mode by the subsidy per boarding and dividing by the total boardings, the

average subsidy for a typical white passenger could be calculated.¹¹⁸ The same technique produced the average subsidy for a typical minority passenger. The results obtained by the Plaintiffs' experts are shown in Table 9.7 below. The total subsidy per boarding for minority MTA bus riders was estimated to be 17 percent lower than for white MTA bus riders. The higher subsidies for whites reflect greater use by whites of express buses and the Blue Line.

The differences were attributed to the fact that white riders travel longer distances on average, than minority riders and use more expensive express and rail services than minorities. Longer trips cost more. As costs per passenger depend on the number of passengers, where fares do not vary by distance, those taking longer trips obviously pay a lower share of the overall costs per mile, than those taking shorter trips. White passengers, in the data analyzed, averaged 12 percent longer trips on local and express buses and 37 percent longer trips using the Blue Line. The experts concluded that the MTA decisions to expand expensive rail and commuter bus services and maintain a flat fare structure resulted in riders making short trips on local buses (who were disproportionately minority) cross subsidizing riders making longer trips on express buses and rail (who were disproportionately white). Thus, minority riders on average paid more

¹¹⁸Transit planners distinguish between linked and unlinked trips. A linked trip connects an origin with a destination, and may involve one or more changes in line or mode, as when a bus patron must transfer to a different bus to complete a single trip. Unlinked trips count each link on a transit trip separately. Thus an unlinked trip is the same as a linked trip when no transfer is involved. But on transit systems with large numbers of transfers, unlinked trips can far outnumber linked trips. Data on passenger trips is typically reported as unlinked trips.

per ride and received a lower subsidy than whites.

Table 9.7. Average Subsidy per Boarding, White and Minority MTA Passengers

	White Passengers	Minority Passengers	Absolute Difference	Percent Difference
Operating Subsidy per Boarding	\$1.34	\$1.15	\$0.19	-17%
Total Subsidy per Boarding	\$1.91	\$1.63	\$0.28	-17%

Source: Taylor, et al. (1995), p. 21, Table 6.

The 25 Least Minority lines had a weighted (by each line's total weekday boardings) average minority ridership of only 58.2 percent compared to the 91.8 percent weighted average on the Most Minority lines. All but one of the Most Minority lines were local buses (the one exception was actually a non-minority under the MTA's Title VI criteria), while nearly half of the Least Minority lines, eleven were expensive peak-hour peak direction express bus lines. Since the public subsidy for local buses was only \$1.25 per ride compared to \$2.53 for express buses, the average operating subsidy on the Least Minority Lines was 55 percent greater than on the Most Minority lines, and the total subsidy was 43 percent more (see Table 9.8).

Table 9.8. Average Subsidy per Boarding, White and Minority MTA Passengers

	Least Minority Lines	Most Minority Lines	Absolute Difference	Percent Difference
Operating Subsidy per Boarding	\$1.36	\$0.88	\$0.49	-55%
Total Subsidy per Boarding	\$1.61	\$1.13	\$0.48	-43%

Source: Taylor, et al. (1995), p. 21, Table 7.

The Plaintiffs' experts concluded that, as a group, minority riders paid substantially more for MTA services than white riders, primarily due to the fact that minorities, as a group, tended to use fewer expensive-to-provide express and rail services and more inexpensive local bus service than white riders.¹¹⁹ As MTA fares do not vary with distance minority riders also paid on average higher fares per mile of service than whites, since minorities took shorter trips on local buses and whites tended to take longer trips and use express buses and rail lines more.¹²⁰ In rebuttal, the MTA contended that it was not proper to measure subsidies on a per passenger boarding basis. Rather they argued that the average minority rider makes more bus trips per day and makes more transfers than a white rider and thus receives a higher per passenger subsidy, not lower.

¹¹⁹Taylor, Wachs, et al. (1995).

¹²⁰One passenger hour equates to carrying one passenger for one hour, two passengers for 30 minutes each or six passengers for 10 minutes each. Similarly, one passenger mile is equal to carrying one passenger for one mile, two passengers for one half mile each, and so on.

The MTA experts countered that by normalizing for trip length, the differences in subsidies between whites and minority riders is reduced (but not eliminated entirely), suggesting that a substantial portion of the differences in subsidies can be attributed to differences in average trip length, and the remainder to differences in mode of travel (see Table 9.9).¹²¹ They insisted subsidy per passenger-mile comparisons were more valid than subsidies per passenger since they reflected the level of consumption of transportation services.¹²² Note, however, these figures do not take into account capital costs. As the Plaintiffs put it:

The plaintiffs argue that MTA budgets and policies discriminate against racial and ethnic minorities because the MTA is devoting an inordinately large proportion of its expenditures to capital investments, and that this commitment to capital expenditures is causing reductions in the total proportion of the MTA budget developed to bus operations upon which minority and poor citizens are extremely dependent. Furthermore,

¹²¹Subsidies can also be affected by time of day and direction of travel since it is more expensive to provide service during the rush hour commute and in the rush hour direction as labor and capital are underutilized in the off-peak period and traveling in the off-peak direction relative to peak service. Due to limitations in the data, the experts could not undertake an analysis of racial and ethnic differences in peak and off-peak subsidies. With appropriate data, however, this represents another potential avenue to argue that disparities exist in service between minorities and non-minorities. As it is the case that minorities, as a group, tend to travel more during the off-peak period and tend to take more trips going in off-peak directions than do whites, then minorities would be receiving less expensive-to-provide service relative to white. If the transit operator charges fares that do not differentiate between time of day or direction of travel, as does the MTA, minorities would be paying a higher proportion of the actual costs of service than whites and therefore would be receiving a lower subsidy per ride. See Iseki & Taylor (2002).

¹²²Expert Report of Robert L. Peskin.

plaintiffs argue that by making more and more capital investments in a rail system that will be lightly patronized, the MTA is committing itself to many years of future operating expenditures on rail that will also require reductions in bus operations or increases in bus fares. . . . The scale of MTA s capital expenditures is a critical issue in this case.¹²³

By keeping rail fares below actual total costs, the Plaintiffs charged, the MTA had raised fares so that poor, minority bus users would have to pay a higher proportion of the costs of the services they received. The MTA insisted, though, that it was not normal to include capital costs in the calculation of subsidies, and is misleading since (1) rail capital costs have extended useful lives thus there are not subsidies to present riders; (2) Plaintiffs ignore capital cost (such as bus maintenance facilities) expended in previous years to support the bus system; and (3) Plaintiffs ignore spending for roads and road maintenance that have been made, and would have to be made if the bus system were to grow substantially.¹²⁴ By failing to disclose capital costs, however, the MTA planners clearly made rail options appear more attractive than buses, particularly inasmuch as the MTA prices rail and bus trips the same, even though it maintains that rail riders generally take longer trips than bus riders, and thus receive more service for their fare.

¹²³Wachs Supplemental Expert Report, p. 3.

¹²⁴Stopher s Supplemental Rebuttal Report, May 6, 1996.

Table 9.9. Subsidies per Passenger Mile, FY 1995/6

	Revenue Recovery Ratio	Revenue/Boarding	Operating Subsidy/Boarding	Avg. Trip Length (miles)	Operating Subsidy/Passenger Mile
Bus	36.2%	\$0.59	\$0.99	3.8	\$0.26
Blue Line	19.7%	\$0.73	\$2.99	9.0	\$0.33
Red Line	2.3%	\$0.14	\$5.88	1.2	\$4.90
Green Line	6.6%	\$0.50	\$7.03	8.0	\$0.88
Metrolink	41.2%	\$5.22*	\$9.86	34.0	\$0.24**

*MTA share, \$5.05

**MTA share, \$0.15

Source: Expert Report of Robert L. Peskin, p. 32, Table A.

A complementary approach to measuring disparities in subsidies is the farebox ratio, or the contribution the fare paid makes to the actual cost of the ride. Despite declining rail patronage, the Plaintiffs' experts determined that the MTA's farebox revenues had remained relatively constant from 1985 to 1994, but that operating costs had risen dramatically, partly due to the higher costs of providing light and heavy rail service, but also inflation. The resulting decline in the farebox recovery ratio, meant that local, state and federal subsidies made up an increasing proportion of operating costs.¹²⁵ They found that average farebox recovery ratios for white passengers was less than for minority passengers, 31 percent to 34 percent. Comparing the Most Minority Lines to the Least

¹²⁵Luhrsen & Taylor (1997).

Minority lines, the differences were even more dramatic (see Table 9.10).

Table 9.10. Average MTA Farebox Recovery Ratios

	Minority Passengers	White Passengers	All Passengers
Most Minority Lines	.410	.412	.410
System-Wide Average	.344	.311	.336
Least Minority Lines	.313	.299	.307

Source: Taylor, et al. (1995).

There is little precedent to guide how the courts will interpret transit subsidy analyses in assessing whether there is a disproportionate impact on minority riders. In the *New York Urban League* case discussed in Chapter Three, the litigants debated the impact of the New York Metropolitan Transit Authority's decision to increase bus and subway fares by 20 percent, but raise commuter rail fares only 9 percent. The trial court concluded that since the Authority proposed to raise fares more for subway and buses on which the riders were almost 60 percent minority than on its two commuter lines which were over 80 percent white, plaintiffs had made a *prima facie* showing that the proposed fare increase would have a disparate impact upon members of protected minority groups. The plaintiffs in that case pointed to the impact of the differential fare increases on the NYMTA's farebox recovery ratio. The ratios for 1994 and 1995 were similar for both

systems. On the other hand, the projected farebox recovery ratios after the new fares were scheduled to go into effect showed that the proposed increases would result in a substantial reduction in the percentages of subsidy benefit enjoyed by subway and bus riders with no similar reduction in the benefits enjoyed by commuter rail travelers. The increase in bus and subway fares would lead to a significant (12.2%) increase in the farebox recovery ratio for those systems between 1995 and 1996, but much smaller increases (2.6% and 2.2% respectively) in the ratios for the two commuter lines, as shown in Table 9.11, taken from the district court's opinion.

Table 9.11. New York MTA Farebox Recovery Ratios

	Before Fare Increase		After Fare Increase	
	1994	1995	1996	1999
Bus/subway	46.3%	48.3%	60.5%	54.6%
Commuter Line 1	38.1%	38.2%	40.8%	41.6%
Commuter Line 2	44.4%	47.4%	49.6%	49.8%

Note: The ratio includes the costs of debt service.

The New York MTA's own expert testified, however, that the best way to measure the benefits of the bus and subway lines versus the commuter lines was to compare the subsidies per passenger mile rather than per trip. Under this measure the

subsidies were nearly equal for both systems.¹²⁶ The plaintiffs considered this measure inappropriate because in their view the crucial economic transaction is a trip from point to point and therefore using this ratio would result in a distorted picture because the average trip on a commuter line is over five times as long as the average trip on the subway and bus system. Thus, plaintiffs concluded, there were far higher subsidies per passenger *trip* on rail. The NYMTA's economic expert disputed this approach, contending instead that the key issue was the actual price paid for service consumed. He defined discrimination as paying different prices for the same thing and concluded that since the commuter trip was different in length, comfort and other ways, a different price was appropriate and charging differential fares did not constitute discrimination.

The Court of Appeals ruled that using the farebox recovery ratio to demonstrate disparate impact was inappropriate since it not could be shown that this ratio was a reliable indicator of disparate impact. As the underlying claim in the lawsuit challenged the total allocation of subsidies to the two systems, the district court should have first assessed whether any measure or combination of measures could adequately capture the impact of these subsidies upon bus, subway, and commuter line passengers. The appellate court faulted the district court for using the farebox recovery ratio, concluding that while it may be a convenient measure of the share of costs borne by different groups of passengers, it ignored the extent to which one system might have higher costs

¹²⁶In 1994, the subsidy for the subway and bus lines was \$0.193 and in 1995 it was \$0.195, compared to \$0.205 in 1994 for the commuter lines and \$0.200 in 1995.

associated with its operations, such as maintenance requirements, schedules of operation, or labor contracts. The court also noted that there was no reason to assume these expenses would be similar since the systems were fundamentally different in terms of how they carry passengers, frequency of stops, and operating schedules.¹²⁷ Of course, that may well be the issue. The decision to choose one mode over another may have discriminatory consequences precisely because of its different operating characteristics.

The court found that the benefits of rail accrue to the general public as well as riders. There, the comparison of farebox ratios was held not to establish a prima facie case of disparate impact. The court also noted differences in cost may obscure the level of subsidies applied to each system. Of course, in the case of the BRU lawsuit, it was exactly those differences in costs that were alleged to be responsible for the disparate impact on minority patrons.

* * * *

In conclusion, the Plaintiffs and the MTA explored a number of different ways to measure disparate impacts of transit fare and investment policies. They both attempted to

¹²⁷New York Urban League v. State of New York, 71 F.3d 1031, 1037-38 (2d Cir. 1995)

mold their argument to existing legal precedent. As we examine the differences between the more typical employment contexts and the provision of public services, it becomes clear that for Title VI purposes, different considerations should apply in assessing whether or not disparate impacts are present. One of the key differences is the degree to which geography plays such an important role in understanding travel behavior and transit use. Each side struggled with that to varying degrees; neither produced a completely satisfactory solution.

An available job can go to only one person at a time; not everyone can be employed in the same position, or even within the same company. In contrast, bus ridership is very fluid, people get on and off constantly during the course of a day. Still, even though every one can theoretically ride the bus at least some part of the time, the practical reality is that not everyone does and that those who do ride regularly constitute a distinct, if self-selected, group. While, as the MTA correctly pointed out, it does not choose who can or cannot use its services the way an employer decides who it will hire, transit operators do exercise considerable control over when and where their buses and trains operate and therefore can directly influence who among those likely to need and use transit services, will have reasonable access to them. Barriers to use, such as location of stops, frequency, routes, fares, and other factors, may reduce the likelihood that poor or minority residents will be able to use transit. Since the poor and minority are more likely to use transit anyway, the mere fact that their ridership levels are higher than their

proportion in the *county*, is hardly proof of non-discrimination if many transit dependents are unable to use it or are receiving inadequate service. Rail arguably limits transit *accessibility* in that it provides a qualitatively different type of service than buses: longer distance between stops, fewer crosstown connections, more focus on downtown to downtown service. To the extent that this does not fit the spatial travel patterns of most poor and minority riders, it may effectively discourage their ridership (see Chapter Three). Those issues aside, the propriety of spending a billions of dollars in public funds to attract new, mostly middle class white riders is, of course, a different question.

If, in the end, the MTA argument that its minority ridership should be compared to the countywide minority population proves too little, the Plaintiffs' position that service on the Metro Rail and Metrolink disproportionately benefits non-minority riders because both serve a larger percentage of white riders, must be said to prove too much.¹²⁸ Even assuming the Plaintiffs' estimates are accurate and that minority ridership on the Metro Rail and Metrolink is significantly less than on MTA buses, that does not

¹²⁸ Either approach is problematic. If the likelihood of riding transit is projected from data on those who actually use MTA bus service, the test would be tautological since the number of minorities expected to ride transit would simply equal the number who in fact use existing transit. This is essentially how the Plaintiffs approached the issue. One approach would be to look at the characteristics of all transit riders in the county, which includes systems other than the MTA, though since the MTA represents by far the largest system, the differences would be slight. Or, estimates of minority riders could be based on averages for the whole county or selected cities most closely matching the service characteristics of the system in question. In addition to the problem of deciding what constitutes a comparable system, the tenor of the court decisions suggests that the comparison pool should come from the local area. We could look for models that specifically predict rail as opposed to bus ridership, but that really begs the question. From the evidence presented by the parties, little more can be concluded than that the MTA's rail system, even when fully operational, will serve a higher proportion of minorities than in the county population, but that the rail lines will most likely carry a lower proportion of minorities than the bus system.

necessarily suggest unreasonable discrimination. Again, these simple tests fail to account for the spatial character of transit service compared to the employment and jury cases on which these tests were developed. Clearly, the three different modes, bus, light rail and commuter rail, serve different populations, as would be expected of any services located in different areas. The MTA's local buses have predominately minority patrons because it is located in predominately minority areas of the county. Metrolink, a higher non-minority ridership because it runs in less minority areas and is oriented toward suburb to downtown business commuters, a higher percentage of which are non-minority. It may be noted, however, the main difference between minority ridership on Metrolink and the minority population of the county is due to the relatively low proportion of Hispanic riders.¹²⁹ The income distribution of riders is however, much higher on Metrolink than on MTA buses.

There is no principle to suggest that different transit modes should serve the same populations or that white riders or even wealthy riders should be denied service just because they might use the service in high numbers. Bus service would not be practical to carry riders from outlying part of the 400 square mile county area, or from other counties. Commuter rail service is preferable for these areas because it is faster, and avoids the congestion on surface streets. The minority proportion of downtown

¹²⁹While over two-thirds of all Metrolink riders were white, Latinos comprised only 13 percent of riders compared to over one-third of the general population. Asian Americans and African Americans each represented 9 percent of Metrolink riders, roughly the same as their proportion in the county population.

commuters from these areas is less because the proportion of minorities in the population in these areas is less than the county in general. That alone does not imply disparate effects any more than the fact that the proportion of minorities on different bus lines varies by the areas served by those lines. Lines serving Watts, a largely African American part of Los Angeles, will naturally tend to have more black riders, while lines running through largely Latino East Los Angeles, will have more Hispanic riders just as lines in the mostly white westside have more white riders. There is no more reason that different transit modes should carry the same racial and ethnic composition of riders than that each and every bus line should. The simple tests proffered by both the Plaintiffs and the MTA would seem to be inadequate and inappropriate to isolating disproportionate impacts in service. In a sense, each system is by definition, intended to serve different groups.

The MTA rightly attributed the varying ethnic percentages among the individual rail lines to the different compositions of populations through which each line passed. But this only points up the difficulty in making line by line comparisons. The Blue was developed in an existing corridor with a high minority ridership.¹³⁰ The other Metro Rail lines, the Red, Green, and Pasadena Gold lines, will likely have less minority ridership even at buildout. Judged by comparison only to their corridor populations, all but

¹³⁰In the case of the Blue Line, it runs along a corridor that had been served by local and express bus lines, some of which were discontinued or rerouted once the Blue Line began operations. Ridership along the corridor on these buses was indeed proportionately more minority than the current ridership on the Blue Line. However, most of the riders on the earlier bus routes were simply diverted to the Blue Line.

Metrolink may in fact do well, given the demographics of transit riders in general. Here again, space plays a critical, though often overlooked role. It was first of all the MTA's decisions to build rail in areas of lower minority populations—Hollywood, Pasadena, the San Fernando Valley—while bypassing more minority areas such as South Central and East Los Angeles that raised issues of discriminatory treatment. But secondly, it was the decision to concentrate on building a radial, downtown centered, commuter-oriented system *in toto* that precipitated the BRU court battle. As previously discussed, low income and minority riders tend to take shorter trips and more local and midday off-peak trips. Fixed rail service is not as conducive to serving this type of travel behavior. The real question is whether the cost of providing commuter-oriented service can be justified, given that it serves fewer transit dependents. There are certainly public policy reasons which might argue for developing a more regional, multimodal transit system, that better serves different submarkets, provided it improves transit access for everyone, but the great folly of the MTA's rail system is that it has actually *reduced* ridership overall and *lowered* access by shortchanging bus service. Static comparisons of ridership don't really adequately address the disproportionate impacts of transit policies since they simply ignore the spatial characteristics of travel. Comparisons of the costs to provide different types of service, particularly if they include the true costs of constructing, not just operating, various systems provide a better picture of who benefits and who pays when it comes to assessing the impact of decisions made by transportation planners. In this regard, the New York appellate court appears mistaken to avoid such comparisons on the

grounds that different modes have different cost structures, particularly where it the decision to choose to provide one type of service over another (and by extension one group of consumers over another) is itself the issue.

CHAPTER TEN: SOCIAL JUSTICE IN POST-CIVIL RIGHTS DISCOURSE

The past half century has seen dramatic changes in the character of urban areas as the spatial logic of post-industrial market economies have led to strategies that promoted urban dispersal. Federal housing and transportation policies, such as low mortgage rates for single-family suburban housing construction, federal matching funds for highway expansion, and massive national defense spending in Sunbelt regions all encouraged urban decentralization, suburbanization, and regional deconcentration. This urban restructuring process has resulted not only in a shift in population from central city to outlying areas but also growing economic and ethnic polarization between central cities and outlying areas. The growing political and economic dichotomy between center and periphery has been characterized by sprawl and leap-frog development, lack of access of inner city residents to suburban jobs and affordable housing, and increased congestion and travel times on local highways. Declining downtowns, the growth of exurban centers with their own retail shopping and employment locations, lily white suburban middle and upper-class enclaves and poor inner city minority populations with costly social service needs have become commonplace. Due to these economic and demographics shifts, central cities face declining revenue bases while suburban areas

boast populations that are wealthier and far less transit dependent. Gerald Frug declares that urban policies have led to the simultaneous creation of poor African American neighborhoods and of privileged, mostly white, suburbs.¹³¹ Saltzman argues that the more mobile suburban lifestyle reflected in single family homes and more diversified employment and shopping opportunities has generated trip patterns that are much better served by automobiles than by either rail transit or buses.¹³²

By the 1960s, the continued loss of patronage, particularly during weekend and other off-peak times added to the financial instability of the transit industry, which had been in a long period of decline since shortly after World War I. Transit faced the emergence of two distinct submarkets for its services: declining numbers of middle and upper-income peak period commuters and growing numbers of poor, largely minority, innercity residents. Most transit companies had abandoned rail services in favor of bus lines. While a few private companies survived, public agencies assumed much of the remaining transit operations. The transition from private enterprise to social service catering to an increasingly impoverished ridership base left transit with a narrowing customer base, highly concentrated in inner city areas, whereas the potential tax base needed to support public transit was moving to the suburbs.

¹³¹Frug (1996).

¹³²Saltzman (1992).

Today, over 85 percent of all intra-metropolitan trips are by automobile. Public transit has largely become an ancillary service for those without access to an automobile and outside of the largest cities transit service has declined to largely insignificant levels. Many smaller cities and rural areas no longer have any transit service at all. And while most larger urban areas continue to have local bus services, they are heavily subsidized; in some areas the main incentive to provide bus service comes from the funding policies of state and federal governments that distribute tax revenues to localities to operate transit services. There is a growing dichotomy, though, between those systems, or services within systems, that primarily cater to the suburban market and those that serve inner city residents.

Rather than addressing the underlying problems, the federal government and those states that have pursued policies favoring fixed rail over buses, and suburban commuter services over local transit service, have exacerbated the situation. For public transit providers, securing federal funds and reaching out to suburban residents to support transit meant developing new systems to meet the needs of suburban commuters often to the neglect of the needs of the urban poor, the elderly, women, school children, the disabled and other transit dependents for adequate local bus service. The problem is certainly not confined to transit, rather, it reflects a broader problem with the legal and political organization of our cities and regions.

As central cities have become warehouses for the poor, the law has reinforced the social and economic disparities that have arisen between center and periphery. Suburban municipalities have been permitted to use their local police powers to encourage revenue-generating land uses all the while discouraging affordable multi-family housing for low income persons, that are perceived as net revenue loses. In the familiar 1926 *Euclid* case, which upheld the constitutionality of zoning, the Supreme Court cautioned against the parochial use of local power. Reflecting on contention that the Village of Euclid should not be permitted to interfere with the natural growth and development of the region, the court opined:

[T]he village, though physically a suburb of Cleveland, is politically a separate municipality, with powers of its own and authority to govern itself as it sees fit within the limits of the organic law of its creation and the State and Federal Constitutions. . . . It is not meant by this, however, to exclude the possibility of cases where the general public interest would so far outweigh the interest of the municipality that the municipality would not be allowed to stand in the way.¹³³

The court was thinking more of the exclusion of industry than housing (indeed at one point in the opinion it refers to apartment houses as parasites and near nuisances), but

¹³³*Euclid v. Ambler Realty Co.*, 272 U.S. 365, 389-90 (1926).

its warning is clear. Municipal self-interest can be a threat to the regional welfare. Nevertheless, in the ensuing decades the courts have by in large sustained exclusionary housing practices through the legal rationale of protecting local municipal autonomy and neither the states nor the federal government has done much to prevent them. This (deliberate?) ambivalence is reflected in the shift of political and economic power to the suburbs at the expense of central cities.

There are few alternative models to challenge this dominant mythology of local control. A small number of state court decisions and some state level legislation, primarily in the housing context, has given rise to an emerging notion of regional responsibility -- the idea that local political jurisdictions must take account of the effects of their decisions on other neighboring jurisdictions and on the general welfare of the residents of the region and even the state. For example, the New Jersey Supreme Court, in the landmark *Mount Laurel* decision imposed certain fair share housing requirements on certain municipalities in response to the parochialism of local government land use authority which often limited construction of low and moderate income housing in suburban areas.¹³⁴ California and a number of other states followed up with detailed planning requirements to ensure that localities would consider the regional impacts of

¹³⁴Southern Burlington County NAACP v. Township of Mt. Laurel [Mt. Laurel I], 67 N.J. 151, 336 A.2d 713 (NJ 1975); Southern Burlington County NAACP v. Township of Mt. Laurel [Mt. Laurel II], 92 N.J. 158, 456 A.2d 390 (NJ 1983); Hills Dev. Co. v. Bernards Twp., 103 N.J. 1, 510 A.2d 621 (NJ 1986).

their planning decisions.¹³⁵ Where these concepts have been implemented local political authorities are required to consider regional needs in their decision-making. This concept of regional responsibility has been at best a partial response to the regional conundrum; it has not overcome the general preoccupation the law has with places and boundaries and thus political power remains by and large fragmented at the local level.

The law justifies this response on a notion that diverse political interests are satisfactorily represented through these existing local democratic process despite the fragmentation of political jurisdictions. However, where the cumulative effects of local decisions nonetheless have regional consequences, real dissonance is created between the ideals of democracy and the reality of politics. This *de facto* regional policy has made it extremely difficult to deal with the problem of uneven development between the urban core and periphery. This is clearly not just a question of transit, or even transportation generally, but involves issues of housing, educational and economic opportunities. A more comprehensive approach to urban regions that explicitly addresses how areas are socially and economically inter-connected and how people actually live and work in urban spaces needs to be developed to address the spatial inequalities that have generated the current urban crisis.

As political power has gradually shifted from central cities to suburbs there have

¹³⁵See e.g., California Government Code Section 65000 et seq.

been calls for giving greater recognition to the importance of the region. Regional and even state level planning has been offered both as a way to improve efficiency and to reduce uneven patterns of regional development and improve social equity. While regional planning may be perceived as a way to reduce some of the inequalities that currently exist, the organization of local government based on the principle of municipal autonomy has prevented most efforts to address urban issues through political reorganization on a regional basis. Regions have continued to be dominated by autonomous political municipalities. Suburban growth has been accommodated either through creation or expansion of incorporated political entities that are legally distinct from central cities. Attempts to create formal regional governments have been largely unsuccessful outside one or two well known examples.¹³⁶ The reluctance of local politicians to sharing power as well as the general public opposition to creating new layers of government may account for this failure.

On the other hand, there has been a quiet revolution of sorts in planning in recent years, to borrow a phrase, in the form of limited federal legislation in areas such as air quality management and transportation, areas where there is some consensus that solutions to the problems require political coordination at the regional scale. Largely the result of federal government policy, there are now regional air quality districts to direct pollution reduction efforts, and metropolitan planning organization to coordinate regional

¹³⁶Orfield (1998).

transportation plans, but these entities lack any real direct political accountability to local voters.

To date, federal and state policies that guide regional transit systems have adhered to static, place-based principles favoring geographically dispersed distributions of public resources that reflect existing political realities but have largely ignored questions of social equity. Ironically, shifting responsibility for public transit to more geographically representative bodies may in fact be doing more to decrease social equity than promote it. While they are capable of responding to regional political needs, agencies like the MTA are not politically accountable to those who most depend on their services. The MTA Board, as an example, is controlled by local elected officials, and dominated by county and suburban interests. While regional concerns may have motivated the California legislature to create the MTA in the first place, it has also limited opportunities for competing voices to be heard on the Board. To the extent that elected representatives of the City of Los Angeles have shown any leadership on behalf of bus riders, they have not been able to break the strangle hold the Board of Supervisors has over the agency as they have continued to oppose implementation of the Consent Decree.

The emergence of regional special purpose authorities, like the MTA, that do not possess the usual guarantees of representativeness contained in directly elected political jurisdictions, present special concerns. Since they lack general police powers, they do not

directly challenge the jural authority of municipal governments and can therefore be treated as quasi-private entities that are not subject to the same level of public scrutiny as elected bodies. By shifting responsibility over government functions to these regional agencies that do not appear to challenge the dominant model of local control, the impact of public policies on local neighborhoods and communities can be submerged in the supposed special expertise claimed by these entities. As a result, the political nature of the planning process becomes hidden. A superficially rational planning process, designed to address the needs of the entire region, can instead become a means to funnel collective resources to other more narrowly circumscribed political constituencies. As more and more authority for regional planning decisions becomes vested in these hybrid authorities, there is less reason to trust the adequacy of current legal and political safeguards to address the growing gap between political representation and democratic principles. It was precisely that political failure to respond to the needs of transit dependents that forced the BRU and its allies to take their struggle to the courts.

The Social Significance of the MTA Case

The Civil Rights struggle, at its core, was always about *opportunity*. The leaders of the movement deliberately chose desegregating education and transportation as their battle fronts. They understood that if African Americans could gain access to schools and

buses on an equal basis to whites, they could vastly improve their economic outlook. Those hard won victories have been muted somewhat by uneven growth and development of urban regions. In many ways, both liberal and conservative social policies have eschewed the integrationist approaches of the Civil Rights era. The abolition of legal segregation has not produced a color-blind society except in the sense that our politics is increasingly blind to growing racial, ethnic, and economic polarization.

In the case of public transportation, it is no longer a matter of getting on the bus, but where the bus goes and who pay how much for it. As this study has shown, there is enormous pressure on transit agencies to serve the narrow band of peak period, suburb to downtown commuters, even at the expense of the overwhelming numbers of inner city transit dependents, the vast majority of whom are persons of color. The growing regionalization of public transit, has reshaped the nature of the debate over civil rights in the field of transportation, just as white flight, opposition to forced busing, and demands for local control have transformed the question of equal education. School desegregation has given way to magnet schools and learning academies. In a sense, federal education policy has opted for a sort of separate but equal solution: increased funding for inner city schools coupled with greater local control and an end to busing. Whether that program will work remains to be seen. In the case of transit, however, the trend has been toward separate and *unequal* bus and rail systems. That one system serves a mostly minority clientele while the other caters to a more white ridership is a

potential new civil rights problem.

Unfortunately, the traditional legal approaches, like those discussed in Chapter Two, were based on models of *de jure* segregation not necessarily applicable to this situation. Not only are there no explicit legal barriers to access, but as a practical matter, the two systems are not racially segregated in any strict sense. For the individual, the choice of system depends on one's own needs dictated by the location of their housing and employment, factors influenced by the spatial arrangement of urban areas and the social and political policies and practices that have shaped them. In one sense, transit agencies like MTA are only responding to conditions as they find them. On the other, they have choices in how to respond to the needs of the transit riding public. Under these conditions proving discrimination required a different legal theory from that in *Brown*.

With the emergence of the Environmental Justice movement, transit advocates began to see a possible avenue to challenge transportation policies that disadvantage central city residents. As discussed in Chapter One, the concept of Environmental Justice helped to reinvigorate the Civil Rights Movement with a broader, regional perspective and a focus on the actual impacts on minority communities from governmental policies, irrespective of overt racial bias. Given the concentration of poor, minority transit dependent populations in inner city areas, federal legislation in the form of the 1964 Civil Rights Act could be used to oppose the shift in policy toward investment in high speed,

radial rail systems and to resist declining resource allocations to local bus service. As already noted, though, recent Supreme Court decisions have all but foreclosed the federal courts from hearing challenges by private parties to agency policies absent proof of deliberate racial motives on the part of transit officials, leaving only the FTA to police the allocation of federal funds to ensure non-discrimination. Nevertheless, the few attempts to challenge transit policies through Title VI that made it under the wire do provide a potentially useful, if not completely adequate, way of thinking about questions of social equity in public transit, and more generally.

In the MTA case, each side framed the problem in a somewhat different way. The MTA attorneys approached the issue from the more traditional legal view of guaranteeing physical access, arguing that because its ridership *was* primarily minority it could not possibly be accused of discriminating *against* minorities (and in the process largely ignoring non-race based impacts). In line with the new regionalist focus of transportation planning, policy debates at the agency had frequently focused on the equitable allocation of available funds to capital projects based on the geographic representation of board members. As such, the MTA made decisions favoring expensive rail and subway construction that would guarantee various regional interests equal shares of the financial pie (recall the Prop A map showing a broad black grid covering virtually all the county). In court, the agency maintained that allocating spending according to this geographic model of equity was consistent with all relevant federal and state mandates for

non-discrimination.

The Plaintiffs, on the other hand, adopted a broader approach to distributional equity not necessarily confined by race, and focused on attacking how the agency's fiscal policies had shortchanged *all* transit dependents. From their standpoint, this was not an issue of whether minority riders could theoretically travel all over the county, but how the agency was allocating resources between different types of service and the impact those policies had on the ability of people in poor and minority communities to get where *they* actually needed to go. The BRU and its allies drew public attention to the fact that the MTA was spending a great deal to attract new discretionary riders to rail service -- mostly suburban white riders who had greater access to alternative means of transportation -- resulting in reduced service to those existing riders who depended on city bus lines. They argued that inasmuch most riders are poor, extremely poor, agency expenditures should primarily serve poorer areas rather than wealthier ones. In any case, the Plaintiffs asserted, the MTA should not be spending *more* on discretionary riders than on the transit dependent or building an expensive new rail system that would not meet the needs of the MTA's core ridership at least until the bus system was substantially improved.

The parties conflicting legal positions also reflected different units of spatial analysis. Where the MTA was primarily concerned with equalizing spending among the different political jurisdictions that make up the regional transit planning area, the

Plaintiffs looked at the impact of those spending decisions on individual riders.

Analogizing to employment discrimination law, the Plaintiffs developed evidence on the percentage of minority riders on buses versus rail service to establish a case of disparate impact. The MTA also used statistical tests drawn from employment cases to show that minorities were adequately served. In other words, while both sides drew on existing models and legal principles to state their respective cases, neither was able to provide a completely appropriate framework for approaching the issue. Unlike the employment context, which focuses on the racial composition of a particular employer's workforce, simple comparisons between the percentage of minority riders on buses versus rail lines ignore the diversity of transit routes in an area the size of Los Angeles County and the complex interaction between bus and rail service in metropolitan areas.

In one sense, the MTA's policies could even be seen as promoting a more racially diverse ridership if the comparison is the general population instead of just those who are dependent on public transit. In part, the question here is how each side defined the real problem. No one would think it an appropriate policy goal to equalize spending on AFDC recipients by race or geographic location rather than need. Similarly, it can be argued that it makes little sense to equalize transit spending in both poor and wealthier areas since those with money already have access to automobiles. Here, though, the MTA entered the case at least viewing transit more as a public utility, like water or telephone service, would than as a social service provider might. Traffic congestion and

air quality concerns were clearly paramount to accessibility issues, or at least became so.

On the one hand, the BRU case illustrates some of the difficulties faced in applying both traditional civil rights principles and Title VII job discrimination tests to public transit. While the initial position taken by the transit operator, that a geographically dispersed transit system serves all interest groups equally, is far too simplistic, the Plaintiffs' reliance on line by line comparisons was also problematic from a policy standpoint. Bus and rail lines have long been desegregated; the key issue now is whether cost and the location of transit services may favor some riders while effectively excluding others. As transit investment in many cities has increasingly shifted from buses to rail the disparity in the economic, racial and ethnic composition of riders between these modes has increased as shown in Chapter Three. Still, the question is more complex than a simple comparison of the ridership demographic between buses and rail might suggest. Considering the uneven spatial distribution of transit riders by race and income, commuter services will have a different ridership profile than local buses. But, many subway and light rail lines have substantial minority patronage, though generally less than for buses.¹³⁷ This means that although shifting spending from buses to rail systems tends to benefit wealthier, non-minority riders disproportionately compared to low income and minority transit dependents, some poor and minority riders will receive direct benefits from such expenditures. In addition, some commuters, rich or poor, black

¹³⁷Pucher et al, (1981); Taylor et al. (1996); Luhrsen and Taylor (1996).

or white, may use both bus and rail service for particular trips. Moreover, all commuters may benefit to some extent from the reduced traffic congestion due to higher transit use, even if they do not personally benefit from particular rail improvements. Thus, treating this problem as merely a bus versus rail issue could well overlook benefits to all groups from having a regionally integrated transportation system.

No one is suggesting that public transit should never serve the needs of suburban residents. The issue is one of priorities and whether the relative benefits and burdens of transit investments are being spread relatively evenly. To the extent that public transit can play a role in reducing air pollution (and there is admittedly considerable debate on this) those benefits should at least be balanced against the negative distributional effects.

As the MTA litigation pushed equity issues back closer to the forefront, the MTA was forced to give bus riders top priority over rail development, though it has continued to resist that mandate. That is a significant change, but, to successfully counter the regional agenda of agencies like the MTA will require a more fully theorized politics of regions. In a way, compared to the Plaintiffs, the MTA's litigation approach reflected a far more explicit recognition of the importance of the region. This is best reflected in how each side dealt with one of the key legal issues in the litigation. In employment disparate impact cases, defendants can justify policies, notwithstanding their disproportionate effects, that are necessary to the operation of their business. The courts

have applied the so-called business necessity test to governmental defendants, even though government does not operate from the same motives as private business. The rationale for applying such an extension, particularly outside the hiring context to public investments, may not be entirely applicable, at least not without some key modifications.

As the MTA lawyers pointed out, the goals of public agencies are more diffuse than simple profitability or efficiency, and may require a more flexibility. By the same token though, there may be arguably less reason to credit efficiency or profitability rationales in a governmental policy context, then in the case of private or public employment.

The *SEPTA* case discussed in Chapter One is instructive in this regard. In it, the Court of Appeals actually seemed to eschew the usual business necessity requirement in favor of an even less strict legitimate business purpose test. Relying on language in the *Wards Cove* decision (later overruled), the court concluded that SEPTA's goal to increase rail ridership did not need to be essential or indispensable to its operations and the only alternatives suggested by the plaintiffs, to either raise rail fares or reduce service, would not accomplish that goal with any less discriminatory impact on racial minorities. The court noted that its function was not to second guess SEPTA's

business judgment.¹³⁸

The court claimed that SEPTA's critics oversimplified the agency's objectives since it had to deal with the economic realities of a diversified transportation business. According to the court, the agency in its business judgment could simply choose to improve service to suburban commuters by decreasing service to largely minority bus riders. But, unlike the private sector, public transit fares are not set to maximize profits, or even to minimize losses. Providing affordable transit service is a stated goal of nearly every public transit system in the U.S. But, as nearly all transit services operate at a loss, public subsidies are necessary in order to cover the operator's costs in excess of revenues.¹³⁹ Public transit subsidies were initiated and have continued for over thirty years because local, state and federal governments have determined public transit to be an essential public service for those who because of age, disability, or income constraints, cannot travel by private automobile. Thus, fares are not set to maximize profit as they are

¹³⁸The decision is at odds with Ninth Circuit Case law in *Larry P. v. Riles* and based inappropriately on *Ward's Cove* which was overruled in amending Title VII under the Civil Rights Act of 1991 to add 42 U.S.C. § 2000e-2(k)(1)(A) confirming that employment practice cases are to be governed by *Griggs* and pre-*Ward's Cove* decisions. See *Atonio v. Wards Cove Packing Co., Inc. (Atonio II)*, 10 F.3d 1485, 1491 (9th Cir. 1993) (The 1991 amendments restate [] the business necessity defense and place on the employer the burden of proving that a practice causing a disparate impact is job related for the position in question and consistent with business necessity (quoting § 2000e-2(k)(1)(A)(i)). *NAACP v. Wilmington Medical Center, Inc.*, 491 F.Supp. 290 (D. Del 1980) *aff'd* 657 F.2d 1322 (3rd Cir. 1981) is flawed for same reason. *Latimore v. Contra Costa County*, correctly applies S.Ct. Law and Ninth Circuit law to require business necessity.

¹³⁹Nationally, taxpayers subsidize approximately two-thirds of total public transit costs. In other words, for each dollar collected in fares, advertising, and other income, transit systems require approximately two dollars in local, state and federal subsidies to operate. Transit systems typically recover only from 10 percent to 50 percent of operating costs (labor, fuel, etc.) from passenger fares whereas nearly all capital costs (equipment, construction, etc.) are typically covered with local, state and federal subsidies.

in the private sector, but to cost-effectively maximize ridership and fare increases have lagged well behind the rate of inflation during that time.. Some systems have even eliminated fares entirely on certain lines to stimulate ridership.¹⁴⁰

While public transit agencies do not operate to maximize profits they do have a fiscal responsibility to the taxpayers to keep to a budget and to minimize the amount of subsidy required for transit operations. Still, unlike a private company, fiscal motives are not the sole consideration. Transit exists to serve the public. The question is whether transit providers should offer services on the widest possible geographic basis, regardless of whether consumers have alternative choices such as automobiles, or seek to improve mobility for those with the fewest alternatives. This is not to suggest this is strictly an either/or question; still, the issue remains how much discretion should public transit providers be allowed in setting priorities in situations where the consequences fall most heavily on the poor and minority groups.

The federal appellate court treated SEPTA as if it were a private employer who could reasonably choose to cross subsidize its operations in order to maintain a less profitable division. In effect the case held that the transit authority had wide discretion to support rail transit over buses even if such actions had a disproportionate impact on minority riders. Under this fairly minimal level of scrutiny nearly any decision would be

¹⁴⁰Cervero (1990), pp. 130-131; APTA (1993), p. 56.

protected unless opponents could prove the same objective could be accomplished with less discriminatory impact. The ruling suggests that regional transit agencies are free to decide that providing a geographically dispersed transit system is paramount to serving the needs of the transit dependent. It begs the question, however, whether the business judgment rule which was developed in the context of private employers should be applied without modification to public entities that have a larger responsibility than simply maximizing profit.

Throughout the litigation, the MTA played the region card extremely well. The agency pointed to the two public votes authorizing sales tax increases for transit as proof it was committed to developing a politically popular rail transit system that served the entire region in line with federal air quality and transportation policies. But, its own forecasts indicated that the rail system would carry only a fraction of the bus system's riders. Indeed, total transit ridership *fell* 20 percent after construction began on the rail system.¹⁴¹ These sorts of considerations should be given weight in determining whether the rail program was necessary to the agency's business. At the least they should be evidence that the policies are not achieving their goals in the least discriminatory ways possible. Though the Plaintiffs derided the MTA's asserted interests—the need for rail lines, the need to balance budgets, and the need to attract white, middle class riders, as

¹⁴¹The agency actually reduced its peak hour fleet buses from 2200 to 1750, despite increases in potential demand for transit service, and despite its purported commitment to significantly increasing its bus fleet. The BRU has kept up the pressure on the MTA through the Joint Working Group and the courts to increase the number of buses in service (see Chapter Nine).

insufficient, they did not provide an explicit alternative regional vision or link the transit issues to other social struggles.¹⁴² It would have been interesting and possibly useful in a legal context, for instance, to connect the lack of adequate local transit in Los Angeles to higher unemployment and social welfare costs, even negative environmental impacts, to counter the assertions of regional benefits such as the MTA was able to make in this case. That task would be made easier if opponents had more adequately theorized concepts of the region and documented research on regional processes with which to challenge agency policy. One place to start is to examine what the litigation was able to accomplish in terms of creating an alternative to the MTA vision, and how it might be possible to build on those successes to advance a broader social agenda.

Law and Space

Law structures our perceptions of space and power by creating and enforcing boundaries or borders designed to enforce physical or social separation between different entities. The very categorical nature of law insists on division and separation. Those rules generate the social spaces we inhabit but they also shape how we think about them, though most typically, the role of law in actively defining and promoting particular

¹⁴²The MTA had the burden of proof on the issue of business necessity. Nevertheless, from a political viewpoint, as well as a legal one, agency assertions of regional need to be challenging with affirmative alternatives.

representations of space is submerged in formulaic arguments over precedent, statutory interpretation and legislative intent. Legal language can be used to conceal and reinforce social oppression as, for example, in the separate but equal doctrine crafted to limit the effect of the Fourteenth Amendment, the narrow intention requirement read into the due process and equal protection clauses,¹⁴³ the state action requirement designed to exempt certain forms of private discrimination from their reach,¹⁴⁴ the rules of standing limiting access to the courts,¹⁴⁵ and in the concept of local autonomy, as discussed above, by which the courts defend economic (if not overtly racial) exclusionary zoning.¹⁴⁶ In the ways it defines these different terms, public versus private, local versus national, those with rights and those without, the law shapes the very social spaces we inhabit.

By privileging analytical tropes of borders and boundaries, the law makes it harder to even think in terms of alternative spatial arrangements, since they implicitly threaten a carefully constructed sense of order. But just as the courts can usually be counted on to protect and defend the status quo, they can sometimes also provide a means to promote

¹⁴³Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976); City of Eastlake v. Forest City Enterprises, Inc., 426 U.S. 668, 96 S.Ct. 2358, 49 L.Ed.2d 132 (US 1976); Village of Arlington Heights v. Metropolitan Housing Dev. Corp. [Arlington Heights I], 429 U.S. 252, 97 S.Ct. 555, 50 L.Ed.2d 450 (US 1977).

¹⁴⁴But cf, Shelley v. Kraemer, 334 U.S. 1, 68 S.Ct. 836 (1948).

¹⁴⁵Warth v. Seldin, 422 U.S. 490, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975); Wards Cove Packing Co. v. Atonio, 493 U.S. 802, 110 S. Ct. 38, 107 L.Ed. 2d 9 (1989); Alexander v. Sandoval, 532 U.S. 275, 121 S.Ct. 1511, 149 L.Ed. 2d 517 (2001).

¹⁴⁶Euclid v. Ambler Realty Co., 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926).

change if and when some of those well-placed barriers prove dysfunctional. Law does have the capacity to modify social spaces, should they threatened the process of accumulation or the social peace. As much as conservative courts have construed civil rights law to protect the status quo, they have, especially since *Brown*, also swept away some of those boundaries, as in the cases of transportation and school desegregation, or job and housing discrimination. But progress has been limited and these decisions only act in a negative way, by denying validity to some boundaries, while preserving others, they do not impose affirmative obligations on government to improve social conditions, as much as conservative critics of the courts might suggest otherwise.

Still, the potential exists to frame more positive vision of how urban space might be organized and open avenues for those left outside traditional legal and planning discourses that will permit them to assert rights over spatial decisions that affect their own quality of life. One of the key aspects of the MTA litigation was that it generated different representations of space to counter those put forward by the MTA.

Transportation planners, such as those in the MTA, were caught between several conflicting political geographies: one that demanded that each political jurisdictions get a share of the pie, and one that demanded the entire region be tied together through the central node of downtown. They chose to follow a concept of geographic equality (respecting political boundaries) organized around the metaphor of *mobility* that

demanded that every part of the whole be reachable from every other part. Physical space dominated this view, with the aim to shorten time and distance from outlying areas to downtown and between a limited number of satellite centers. Serving the needs of spatially concentrated populations that made up the bulk of the MTA's ridership could not be reconciled with spreading resources evenly across the region and enticing automobile drivers out of their vehicles.

The BRU campaign revealed a different set of geographies operating at a much smaller scale. Whether a wheelchair bound person getting on and off the bus, a mother with young children needing to drop them off at daycare and still get across town to work on time, a custodial worker who needs reliable transportation to and from their night-shift jobs, an elderly grandmother without a car going to church, their needs were if not altogether ignored, at least marginalized by the geography of places and borders and nodes and linkages that dominated the political thinking at the MTA. In the MTA's geography the places that mattered were Downtown, Long Beach, Hollywood, Warner Center, the Airport, Pasadena, Lancaster, and the people who mattered most were the suburban automobile users clogging the region's freeways at rush hour. The political composition of the MTA Board reflected their political geography of the region rather than the social geography of the vast majority of MTA's patrons. Rejecting the MTA's view of regional equality, the BRU developed a need-based view of equity centered on personal and social spaces organized around a metaphor of *accessibility* connecting

places that matter in the daily lives of bus riders (jobs, school, day care, etc.). Their view was far more sensitive to the significance of place and the different travel patterns of the poor, women, and persons of color. Lived spaces were dominant in this view. The day to day lives of people in places such as South Central, East Los Angeles were simply not as visible in the MTA's geography.

The BRU produced an alternative spatiality that helped to deconstruct the MTA's regional "connect the dots" model and expose the political nature of its ostensibly rational planning processes. In addition, focusing in on the "representational spaces" of individual riders had another effect. It made it much harder to accept the given categories implicit in civil rights law. Specifically it exposed the limits to conceptualizing the problem of discrimination solely through the notion of "race." In the Bus Riders Union case, the charge of racial discrimination was used to open up a larger debate about the nature of transportation planning and its potential to engender discriminatory impacts on multiple levels. One way it did so was to show the wide range of persons and groups that suffer from the lack of adequate transit.

Law tends to reduce broad social questions to a single issue such as race, separate and apart from issues such as class or gender. Still it is possible to use the notion of "race" as a metaphor for all forms of discrimination in general. Thus, despite its limitations, civil rights jurisprudence provides an important template for thinking about

the questions of discrimination and social justice, even as it has also tended to close off the nature of the debate somewhat. One can still use this framework to examine public policies that directly or indirectly disadvantage certain groups, whether or not the courts will provide any avenue for relief. Creating alternative models to counterpose to the regionalization of transit planning, or other planning, will have to address the multiplicity of forms of discrimination. In the struggle for social justice, the legal approach must be complemented by a recombinant politics of race, class, gender, *and* space.

Post-Civil Rights Social Justice

Although questions of civil rights in the U.S. have usually, and often violently, been played out over matters of race, they have not been limited to race. Even as Reconstruction-era politicians sought ways deal with the aftermath of slavery, the debates took place against the background of class and even gender issues.¹⁴⁷ The deliberately ambiguous but nonetheless universalist language of the Fourteenth Amendment, guaranteeing *all* persons the equal protection of the laws and due process, left room for growth in interpretation. Though several early decisions of the Supreme Court restricted its usefulness in dealing even with questions of racial discrimination, once the Court repudiated its separate but equal doctrine, it expanded legal protection to women,

¹⁴⁷Amar (1998).

aliens, the elderly,¹⁴⁸ and to a lesser degree homosexuals and the mentally handicapped.¹⁴⁹ On the other hand, the Court has shown little inclination to recognize rights for the poor and economically disadvantaged,¹⁵⁰ though it has permitted Congress to legislate some additional guarantees in these areas. The mere fact, that the courts and legislatures have, over the years, alternately expanded and contracted notions of civil rights and public liberties, means it is not merely the static end product of one or two pieces of legislation but a dynamic social process.

Applying civil rights law to transit inequality forced planners and politicians to pay closer attention to the distributional consequences of transit investments, and to reconceptualize the problem in terms of the impact those policies have on the daily lives of transit users. By the same token, it can also be turned back on the legal system to expose the ways in which legal discourse itself can construct urban spaces by using concepts such as race, or gender, or class to order social and spatial relations in different ways. Given that civil rights jurisprudence has shown a capacity to contract and expand in relation to changing views of social needs, applying civil rights formulas to this new

¹⁴⁸See e.g., *Craig v. Boren*, 429 U.S. 190, 97 S.Ct. 451, 50 L.Ed. 397 (1976); *United States v. Virginia*, 518 U.S. 515, 116 S.Ct. 2264, 135 L.Ed.2d 735 (1996); *Plyer v. Doe*, 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982); *Moore v. City of East Cleveland*, 431 U.S. 494, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977).

¹⁴⁹See e.g., *Lawrence v. Texas*, 539 U.S. 558, 123 S.Ct. 2472, 156 L.Ed.2d 508 (2003); *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 105 S. Ct. 3249; 87 L. Ed. 2d 313 (1985)

¹⁵⁰See e.g., *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 93 S.Ct. 1278, 36 L.Ed.2d 16 (1973)

arena of public transit in new and innovative ways may serve to push legal evolution in the direction of a more expanded view of civil and social rights worthy of protection, if not by judicial decree, than perhaps through legislation or other changes in public policy. Civil rights law may yet offer a potentially powerful tool to affect changes in public policies. At the same time, we must recognize that an increasingly conservative court system has been reluctant to open new areas for civil rights litigation so the ultimate outcome remains unclear.

As discussed in Chapter Three, whatever the original intent of the drafters of the Constitution, the Bill of Rights, and the subsequent Civil War Amendments, with regard to their own respective times and places in history, that civil rights remain a matter of such ongoing controversy, suggests that there is no final answer to what citizens and inhabitants can or should expect from their government or one another. Whatever the current limits of judicial doctrine or legislative action, issues such as those raised by the Bus Riders Union campaign against the MTA, are merely part of a broader political struggle to define the parameters of social justice. Even if the Fourteenth Amendment or the Civil Rights Act, as interpreted by the courts, prove unable to carry enough water to adequately address all forms of economic or social discrimination, they can serve both as a point of entry to the debate and a potentially useful tool to draw attention to these larger issues. Planning is still free to work toward wider goals and regardless of the outcome of particular cases, and the law can be quite useful in thinking about these matters. But at

the same time it is critical to resist the inherent danger of binarism and closure implicit in the legal approach.

The public interest law firms involved in the case used their expertise in civil rights litigation to benefit a larger class of persons defined not just by race but also by economic and social status. While founded on federal prohibitions against racial discrimination, the Bus Riders Union litigation was from the beginning conceived and carried out as an attack on multiple forms of racial, ethnic, class, age and gender bias in transit policy. By shining a light on the problem of race discrimination, however, it also served to expose and illuminate the many ways in which current transit policies fail to adequately serve the needs of those too poor, too young, too old, too infirm, or in other ways less able to access private transportation and therefore more dependent on adequate public transportation.

The BRU consciously connected issues of class and gender. The lawyers respected this and referred throughout to the members of the class as *poor and* minority. Linking race, class, gender together served both to educate the public about the class and gender impacts of what the BRU terms *transit racism* but illustrates that other forms of discrimination besides race can be equally pernicious. Through the use of grassroots organizing and political theatre, together with legal action, the BRU not only was able to reimagine transportation planning outside the usual terrain of rationality and

technical expertise, but broadened the discussion of discrimination beyond just race.

The fact that the current state of civil rights jurisprudence forced the BRU and its supporters to fight their legal battle in terms of racial discrimination should not detract from the fact that the MTA's policies also had disparate age, gender, and income impacts. By the same token, the presence of economic or other issues need not obscure the racial implications of these policies. It is therefore extremely important to see issues of inequality in public transit service as simultaneous ones of race *and* class *and* age *and* gender. In presenting their case, the BRU attorneys and their experts refused to reduce the issues to a simple question of either race or economics, but constantly strove to keep these issues conjoined, both for philosophical and tactical reasons.

Coalition Politics

Clearly, civil rights has evolved as a movement beyond the black/white dichotomies of the 50s and 60s. Other groups, from the Gray Panthers, Chicanos, environmentalists, gay rights advocates, etc., have successfully adopted the strategies and rhetoric of the black Civil Rights Movement. But the consequence of the growth and diversification of these various Rights movements, is the lack of any means to link these struggles into any sort of cohesive oppositional politics.

That the concept of equal rights refused to be confined to its historical underpinnings has been both positive and negative. The positives are easy to see, the negatives have to do with the difficulty of trying to be fair to everyone, where everyone potentially belongs to one or more oppressed minority groups (including middle age white males). Our traditional tools of civil rights are being asked to do much more than they were designed for. The neoconservative solution, the color-blind society, where issues of race, ethnicity, gender, and culture are rendered invisible, is highly problematic. Erasing negative stereotypes is fine, but there is significant danger in the homogenization of culture. For many of us, we define ourselves around our sense of belonging to a particular race, ethnicity, gender, religion or sexual orientation. By denying our differences we risk destroying our identities. A progressive post-Civil Rights discourse must first of all be willing to embrace differences, but it must also be attune to how those differences are both shaped by and reflected in our geography. First and foremost, it must find ways to organize broad based coalitions between groups whose common interests are not always readily apparent, and to make the links between other issues like the environment, labor and worker s rights, and welfare reform. Making these connections expands the possibilities to confront hegemonic discourses.

Indeed, this was well illustrated by the BRU campaign, an example of what Leonie Sandercock terms insurgent planning which has its roots in earlier ideas of

advocacy planning and radical planning mentioned in Chapter One.¹⁵¹ In the Los Angeles litigation the lead plaintiff, a multicultural transit advocacy group headed by a former labor activist, concerned with economic justice, joined by ethnic community groups, were represented in court by a traditionally black civil rights organization and a group of environmental lawyers. This disparate coalition of interests that came together to fight the disparate impacts of the MTA's policies, provides an important model itself for what is necessary to mount effective challenges.

New movement politics in a post-Civil Rights period should be more open, fluid and combinatorial in approaches and strategies. It must acknowledge and accept diversity and strive to take advantage of opportunistic coalitions such as the BRU and its allies. It should eschew the narrow interest group politics of pluralism, recognizing that coalitions can form and reform. And, it ought to embrace broad based strategic coalitions of marginalized and peripheralized groups across multiple axes. An effective post-civil Rights strategy needs to incorporate advocacy, equity, and radical models of planning, along with rational planning. Members of the plaintiff coalition have had to become virtual experts in transportation planning as part of their role on the Joint Working Group. Technical expertise was a critical complement to organizing, lobbying, and litigating. Indeed, on several occasions, the Special Master has stated that the BRU's proposed implementation plans were better formulated, more comprehensive, and in keeping with

¹⁵¹Sandercock (1998).

the Consent Decree's mandate than those proffered by the MTA. Planners and transit advocates concerned with transit justice will need to develop their technical expertise to produce trenchant counter-hegemonic models of regional social, political, and economic processes to oppose those used to support the status quo.

Future Implications for Transit Planning

By tackling issues that cut across traditional notions of civil rights, the MTA case contributed to a new perspective that reflects the complex reality of race, ethnicity, and class in Los Angeles and elsewhere. The long term impacts of the lawsuit are still to be determined. The LDF attorneys believe, however, that they succeeded in bringing equity planning issues to the policy table and hope that those concerns will continue to receive attention in the future as a result. The settlement reached in the case represents the ultimately successful effort of a diverse group of actors coming together to effect concrete, equitable change in public policy. The Consent Decree is important not only for its impact on transit fares and service, but also for its effect on the transit planning process. While the decree did not guarantee more equitable policy making on the part of the MTA, it did ratify and institutionalize certain processes, such as the Joint Working Group, that have become a tool for the BRU to leverage policy changes around equity issues. These measures serve to open up the planning process to those most affected by

planning decisions, as well as providing a mechanism for public accountability in the planning process itself.

The Consent Decree's mandate that all future MTA long-range plans, major capital projects, and annual budgets include a discussion on meeting the needs of transit dependent residents was meant to make the planning process more transparent. Another important element is the innovative Joint Working Group (JWG) itself. The JWG not only legitimizes participation by self-appointed representatives of bus riders, the JWG has more influence than traditional advisory committees and could serve as precedent for using institutional bodies like the JWG to increase public input and diversity in the planning process, though, it also raises its own questions of representation and accountability.

From the standpoint of practical results, clearly, there have been improvements made to the bus system in Los Angeles since, and probably because of the MTA lawsuit. The fleet is being expanded, maintenance has improved, the buses are newer, cleaner and less polluting, and overcrowding has been reduced. Some new service has been inaugurated, and the agency has, perhaps reluctantly, been forced to consider a number of less costly, and possibly more efficient and effective alternatives to subway and light rail, such as Rapid Buses and dedicated busways for some corridors. Because of the Joint Working Group, the MTA, at least on the staff level, is probably more attuned to the

needs of transit dependents. Whether that will survive after the termination of the Consent Decree is an open question. Hopefully, future transit planning in Los Angeles will be more cognizant of the needs of its constituents and less driven by political considerations but that will take greater leadership by politicians at the City of Los Angeles and the Board of Supervisors than shown to date. At the very least, there is a recognition that change is in order. Public awareness of the issues has clearly been raised, and will no doubt continue to be raised by advocates such as the BRU. That genie will not be put back in the bottle.

Given that the operations of the Los Angeles MTA are similar to those of other transit agencies and metropolitan planning organizations throughout the U.S., the issues raised by this case study should help inform transit planning programs across the nation. Since the settlement, advocates in other cities have begun to push for similar concessions and local transit operators appear far more aware of the need to integrate social equity concerns into their future planning. Only recently, a federal lawsuit was filed in the San Francisco Bay Area challenging the allocation of funding between suburban and innercity transit services. In addition to legal liability, well-organized and documented challenges to agency practices which discriminate against transit dependents may well expose transit operators to possible loss of federal dollars. Even if that threat does not materialize, the MTA litigation raised awareness around the country and has forced transit operators to reexamine their own planning policies in light of their potential impacts on existing

riders.

The results of this study should also hopefully contribute to a larger debate over the nature of the politics of law and planning. Clearly the planning process at MTA failed to meaningfully accommodate the interests of poor bus riders. Whatever internal debates went on in the agency, they did not survive the political pressures placed on the MTA management by its Board. In the end, local transit advocates were forced to pursue legal avenues through the federal court system. Given that this incongruence between ridership and transit subsidy policies is likely to continue and indeed to worsen in the future, transit policy should be guided by concern for the distributional effects and social justice considerations -- much in the same way that air quality issues have dominated transportation planning in this decade. If transit agencies were required to seriously consider social justice impacts, in much the same way as they must now consider environmental impacts in the planning review process, or if transit patrons had the sort of input in the planning process as provided through the Joint Working Group established in the Consent Decree, greater equity may result.

Conclusion

This research shows how legal systems that appear neutral on the surface can be employed to support particular spatial practices, such as promoting regional growth and development that have biased outcomes. Still, the law can and does play a more dynamic role as when it is used to expose the limits of rational planning models. In the study case presented here, legal processes were used to mount a successful challenge to uneven resource distributions supported by powerful regional growth coalitions. In the case of the MTA, an ostensibly rational planning process, when confronted by an equally rational legal system was forced to acknowledge that its methods failed to adequately address relevant social issues. Social activists, planners, and lawyers joined to attack regional policies that ignored social equity and imposed undue burdens on local communities. The critical question is, can this model become the paradigm for more equitable planning, or just another case of muddling through?

The foregoing raises a number of normative questions that deserve further attention: How should fairness and equity be defined in the context of public transit? Who is being disserved by the shift in transit investment to suburban services and, in some cities, from bus to rail? Should public transit policy strive for greater geographic *mobility*, regardless of the available alternative modes of transportation, or would it be preferable to improve *accessibility* for those with few private alternatives? How should

transit planners respond to the changing spatial and social realities of cities and regions?

An important step in beginning to answer these questions is to clearly define the frame of reference for judging equity and fairness. Under our current system of public transit finance, equity is typically defined by comparing funding allocations among jurisdictions or agencies. Shifting the focus onto the distribution of subsidies for individual transit users or classes of transit users would significantly alter debates over transit equity by challenging the fairness of public transit service provision in the U.S. If indeed public transit is increasingly a social service for the poor and disadvantaged, then planners should begin to view the funding and deployment of public transit in a new light.

Regardless of their long term legal impact, the MTA case, and the two prior lawsuits in Pennsylvania and New York, have clearly raised the awareness of transit planners and policy makers throughout the country to the issue of social equity in public transit. They addressed important questions over the role of transit planning in meeting the needs of transit dependent populations in an era of limited public funding for the poor. The application of civil rights analysis to the provision of transit services to poor and minority areas examined in this study can lead to broadening our ideas about social justice and should have wider implications for planning in general. The success, such as it is, of the MTA lawsuit shows the potential for social movements that challenge hegemonic institutions and planning practices that produce unequal patterns of resource distribution. That, more than any legal precedent or the monetary impact of the

settlement agreement, may be its most enduring legacy.

APPENDIX A: Analysis of Fare Structuring Proposals

Peak/Off-Peak Pricing

The peak/off-peak scenarios¹⁵² were designed to alter the relative contribution from different types of patron to total farebox revenue. The purpose was to improve equity and charge a premium price for premium service. The various scenarios would have anywhere from a negligible impact on revenues to offsetting about 40 percent of the projected shortfall. The lowest fare scenario (\$1.10 peak/\$0.90 off-peak) was projected to reduce boardings by 1.6 percent and increase revenues by \$2.4 million, while the highest category (\$1.50 peak/\$1.25 off-peak) was projected to deflect 7.7 percent of passengers and generate \$57.4 million in additional revenues.¹⁵³

The scenarios were justified on the grounds that providing service in the peak periods costs the MTA more than in the off-peak. The additional cost of peak service is

¹⁵²The peak periods were 6 a.m. to 9 a.m. and 2 p.m. to 6 p.m.

¹⁵³MTA, Fare Restructuring Committee memo, Selected Pricing Scenarios Illustrating the Fare Restructuring Concepts Discussed at the September 23 Committee Meeting, October 14, 1993. Cash riders would pay the peak price during the peak period while tokens would be priced at the off-peak price but usable at all times. Pass prices (other than E/D passes) would be set to the peak cash price. Elderly and disabled pass users would be required to make a cash co-payment during peak periods. Regular pass prices would be set at 50 times the peak cash fare though they would be offered to needy and very needy persons at reduced prices through income-based support programs. Student passes (K-12) would be valid only on weekdays 6 a.m. to 6 p.m. and all college/voc ed passes would be eliminated.

due to the cost of additional bus operators, mechanics and other labor, longer bus routes and lower marginal revenues. The cost of hiring operators and other personnel to cover the peaks is higher due to union contracts which limit the use of part-time workers and require premium pay for split shifts. At the time, the MTA operated around 1,800 buses during the peak period and only 1,100 in the off-peak. The MTA found that the lines with the highest peak to base ratios were \$22.84 (25.9%) more expensive to operate under a fully allocated cost per revenue hour basis than buses with the lowest peak to base ratio. Peak period boardings only averaged 8.3 more per hour than the off-peak or \$4.40 more in revenue (8.3 x \$0.53) compared to an average additional \$9 in costs per revenue vehicle hour. Thus, the net marginal cost to operate peak service was \$4.60 per revenue hour or 7.5 percent more than during the off-peak.¹⁵⁴

All Day Pricing

A \$1.25 base fare with a \$48 regular pass was compared to a \$1.25/\$1.00 peak/off-peak scenario with a \$62 monthly pass. Both raised about \$25 million in additional revenues, however fewer seniors, disabled and student riders would be

¹⁵⁴MTA, Fare Restructuring Committee memo, Cost Justification for Peak/Off-Peak Price Differential, October 13, 1993. The difference may actually be higher since the MTA cost allocation model does not allocate all additional peak costs to the number of peak vehicles. Some of these costs are assigned to passengers, mileage or service hours that do not vary by time of day.

deflected with the all-day fare, mainly due to the higher pass prices.¹⁵⁵

Distance-based Pricing

Distance-based pricing has been used for MTA express bus service. The fare increments were \$0.40 per zone, which average about four miles, or patrons could purchase a \$12 monthly express pass. A similar fare structure was examined for the Blue Line, however, the staff estimated that it would result in a 50 percent loss of ridership. A larger problem was that the rail and busway systems were designed as barrier free systems without fare collection. Some mechanisms would have to be put in place for fare inspectors to know where passengers entered and left the system.

¹⁵⁵MTA, Fare Restructuring Committee memo, Comparing the Impact of an All-day Pricing Scenario to the Impacts of a Peak/off-peak Scenario Presented to the October 21, 1993 Meeting of the Fare Restructuring Committee, November 11, 1993. While the price of an E/D pass was the same in both scenarios (\$12), a 25 cent peak period co-payment was required in the peak/off-peak scenario.

APPENDIX B: Candidate Corridor Analysis

Beginning with the Candidate Corridors, the staff evaluated three different planning scenarios for future transit development beyond the Enhanced Baseline, labeled Maximum Mobility, Low Cost, and Local/Regional Balance.¹ The specific projects included in each scenario are listed below. Note that the Low Cost scenario is basically the Enhanced Baseline (minus the CBD Connector?). The draft LRP tested these alternatives from both financial and transportation planning perspectives. Modifications to each initial scenario would be made based on a financial capacity analysis. The preferred alternative would need to be multimodal, within financial constraints, and best meet the transportation needs of the whole county.²

The Low Cost scenario was much more financially constrained and designed to determine how lower-cost alternatives to certain previously-planned major investments (particularly rail and HOV) could be combined to meet as much of the 2015 demand as possible. More emphasis was placed here on preferential bus lanes, signal synchronization and TDM. The Low Cost scenario would exclude all capially-intensive

¹MTA, Long Range Transportation Plan Reassessment Executive Summary: Overview of Financial Capacity and Methodology, August 1994.

²Memo to Planning and Programming Committee, Finance, Budget and Efficiency Committee, re MTA Long Range Transportation Plan Reassessment - Overview of Financial Capacity and Methodology, August 1, 1994

rail projects.

Low Cost (alternatives to higher cost projects and programs)

Rail

Red Line Eastern Extension to Whittier/Atlantic (3 sta)

Red Line Western Extension to Century City (4 sta)

SFV East-West Line from Universal City to I-405 on Ventura Fwy (4 sta)

Rail Bus

Pasadena to Montclair rail bus (7 sta)

Union Station to Burbank rail bus (5 sta)

Local/Regional Balance (weighted towards regional balance throughout the county and planning criteria such as intermodal connections)

The Local/Regional Balance scenario was designed to combine projects to best meet the anticipated 2015 demand while giving additional weight to local/regional balance of investment and meeting certain ISTEA Metropolitan Planning Factor criteria such as intermodal connections and land use/development goals.

Rail

Red Line Eastern Extension to Whittier/Atlantic

Red Line Western Extension to Wilshire/Federal (6 sta)

SFV East-West from Universal City to Warner Center on Ventura Fwy

Burbank-Glendale Candidate Corridor from Union Station to

Burbank Airport (11 stations)

Downtown Connector (3 sta)

Crenshaw Line from Pico/San Vicente to Hawthorne/El Segundo (12 sta)

Route 10/60 Line from Union Station to Durfee (11 sta)

Extend Blue Line to Duarte (2 sta)

Extend Green Line to Norwalk Metrolink

Extend Green Line to Hawthorne/Artesia

Rail Bus

Duarte to Montclair Rail Bus (7 sta)

Maximum Mobility (projects and programs providing maximum mobility benefits)

The Maximum Mobility scenario was designed to best meet the anticipated level of demand by the year 2015. While costs were a factor, more weight was given to transportation solutions that could best meet the needs in the corridor, while planning factors and prior commitments (other than the Baseline) were given secondary

consideration.

Rail

Red Line Eastern Extension to Whittier/Atlantic

Red Line Western Extension to Wilshire/Federal

SFV East-West Line Universal City to Warner Center on Ventura Fwy

Burbank-Glendale Candidate Corridor from Union Station
to Burbank Airport

Downtown Connector (3 sta)

Exposition-USC Candidate corridor from Downtown to Santa
Monica

APPENDIX C: Alexander v. Sandoval Decision

The majority in *Sandoval* reads Title VI as having two separate and distinct parts: Section 601 prohibiting only intentional discrimination and Section 602 authorizing administrative regulations proscribing nonintentional conduct that has discriminatory effects. The majority strongly implies that Section 601 was designed to protect unintentional conduct having discriminatory impacts. Scalia asserts that there is considerable tension between the presence of disparate impact regulations under Section 602 and the holdings in *Bakke* and *Guardians* that Section 601 covers only intentional behavior, and in a clever bit of legal legerdemain, reasons that Congress could not have intended for private parties to sue for unintentional conduct that, he asserts, Section 601 permits.¹

The majority's argument is at least slightly disingenuous, if not intellectually dishonest. By construing the Court's prior decisions to suggest that Congress intended Section 601 to somehow affirmatively protect government activities that reinforce racial or ethnic disparities, Scalia introduces a false conflict between Sections 601 and 602. It is hard to believe that Congress could have intended the enforcement mechanisms in Section 602 to be so contrary to the purpose of Section 601. Congress may well have

¹Essentially he holds that Section 602 merely authorizes agency action, but contains no language to authorize private suits to enforce them. A private right of action is implied only under Section 601, which the Courts had previously held in *Guardians*, only proscribes intentionally discriminatory conduct.

chosen not to proscribe all mere statistical disparities under Title VI, but Congress could hardly have intended to create such a deliberate conflict as suggested by the majority's rather strained reading of its own precedent. Any conflict between Sections 601 and 602 would appear to be more the product of the majority's tortured jurisprudence than any legislative design.

Justice Stevens, in his dissenting opinion, joined by Justices Souter, Ginsburg and Breyer, offers a more sympathetic reading of the two provisions in which Congress merely sought in Section 601 to directly ban all intentional discrimination but gave agencies authority under Section 602 to establish rules for conduct that while not purposefully discriminatory still involved expenditures of public funds that perpetuate discrimination in society. Noting the lack of any clear guidance in those cases that appear to construe Section 601, Stevens examines the relationship between Sections 601 and 602.² Reading the two provisions together, he concludes that Congress delegated power to agencies to enforce the Act by administrative regulations by giving the agencies power to adopt broad prophylactic rules that go beyond the limitations of Section 601 as

²The dissent puts little stock in the seemingly overbroad language in *Bakke* that Title VI is coextensive with the Equal Protection Clause, at least insofar as implying that no cause of action should exist to enforce regulations adopted under Section 602 that go beyond intentional conduct. Noting that while five justices in *Bakke* endorsed the purposeful conduct limitation on Section 601, and that *Guardians* held as *stare decisis* (based on those remarks in *Bakke*) that Section 601 did not reach disparate impact, there was no independent evaluation in *Guardians* of the actual scope of Section 601. Moreover, two of those five justices from *Bakke* wrote in *Guardians* rejecting this view.

long as they are reasonably related to its antidiscrimination mandate.³ Those administration regulations enforce the aims of the statute by reaching out and prohibiting activities in which federal dollars are used to add to discrimination rather than eliminate or reduce it.⁴ At the time the legislation was adopted, he explains, principles of statutory construction assumed that Congress intended to allow private causes of action and the Court had repeatedly reaffirmed that right to bring civil suits to enforce the rights guaranteed by the entire legislative of Title VI.⁵

In contrast to the majority's view that treats Section 602 as either parroting the text of §601 (in the case of regulations that prohibit intentional discrimination) or forwarding an agenda untethered to §601's mandate (in the case of disparate impact regulations) the dissent does not see the two sections as forwarding different agendas. The dissenting justices recognized the right of agencies to adopt those broad prophylactic rules even if they are broader than what would otherwise be prohibited. Stressing the critical importance of administrative oversight in assuring federal spending does not promote discrimination, the dissent continues:

³532 U.S. at 305, 121 S.Ct. at 1529-30, 2001 U.S. Lexis at 53, quoting *Lau v. Nichols*, 414 U.S. at 571 (Stewart, J. concurring).

⁴Justice Scalia remarks that the dissent's discussion of the scope of agency authority under Section 602 is beside the point given that Section 601 "permits the very behavior that the regulations forbid." 532 U.S. at 1519, n.6, 121 S.Ct. At 286, n.6. His point is valid only under the strained reading of the two provisions adopted by the majority that manufactures the apparent conflict in the first place. Both Justices Scalia and Stevens accuse one another of begging the question.

⁵Under the dissent's reading, even if the private cause of action is derived solely from Section 601, a right to challenge behavior prohibited by regulations that enforce Section 601 is implied. The majority accepts that there is an implied right to enforce Section 601, but only as to intentional conduct.

This legislative design reflects a reasonable indeed inspired model for attacking the often-intractable problem of racial and ethnic discrimination. On its own terms, the statute supports an action challenging policies of federal grantees that explicitly or unambiguously violate antidiscrimination norms (such as policies that on their fact limit benefits or services to certain races). With regard to more subtle forms of discrimination (such as schemes that limit benefits or services to ostensibly race-neutral grounds but have the predictable and perhaps intended consequence of materially benefitting some races at the expense of others), the statute does not establish a static approach but instead empowers the relevant agencies to evaluate social circumstances to determine whether there is a need for stronger measures. Such an approach builds into the law flexibility, an ability to make nuanced assessment of complex social realities, and an admirable willingness to credit the possibility of progress.

The effects regulations at issue in this case represent the considered judgment of the relevant agencies that discrimination on the basis of race, ethnicity, and national origin by federal contractees are significant social problems that might be remedied, or at least ameliorated, by the application of a broad prophylactic rule. Given the judgment underlying them, the

regulations are inspired by, at the service of, and inseparably intertwined with §601's antidiscrimination mandate. Contrary to the majority's suggestion, they apply §601's prohibition on discrimination just as surely as the intentional discrimination regulations the majority concedes are privately enforceable.⁶

The dissent clearly offers the more internally consistent view of the statutory scheme. Disparate impact regulations are indeed inseparably intertwined with Title VI's antidiscrimination mandate. It is clear from the language that Congress, in crafting this legislation intended that public funds should not be expended in ways that increase social inequality or impose undue hardship on poor and minority communities. As the MTA case demonstrates, such actions can be just as demeaning and burdensome as the intentional discrimination Title VI and the Fourteenth Amendment clearly prohibit.⁷

⁶2001 U.S. Lexis at 55-56 (footnotes omitted). The dissent also notes that some disparate impact regulations are really aimed at policies whose intent is to discriminate but are framed in a race-neutral manner such that it is difficult to obtain proof of racial animus. The regulating agency may conclude that a disparate impact regulation is appropriate to address intentional discrimination that is difficult to prove directly. As Justice Stevens explains: As I have stated before: Frequently the most probative evidence of intent will be objective evidence of what actually happened rather than evidence describing the subjective state of mind of the actor On this reading, Title VI simply accords the agencies the power to decide whether or not to credit such evidence. 2001 U.S. Lexis at 55, n13.

⁷The issue of whether standard tests for disparate impact embody an implied intent standard or do indeed reach purely unintentional conduct is addressed in Chapter Ten.

ADDENDUM: THE DEMOGRAPHICS OF TRANSIT PATRONS

This Addendum examines the changing patterns of transit use. The first section looks at transit use in general compared to automobile use, focusing on factors that contribute to transit dependency. Clearly, lack of income is the major determinant, but to the degree that public policies over the decades have supported segregation, racial discrimination, and urban disinvestment, race also plays a significant role in lack of access for poor and minority persons to adequate public transit to carry them to work, school, medical care, and other important locations. Subsequent sections describe how transit use varies by sex, age, race, and income.

The Changing Picture of Public Transit

Over the past four decades the Federal Highway Administration (FHWA) has conducted a series of nationwide travel surveys in 1969, 1977, 1983, 1990, 1995, and

2001 to document population and geographic characteristics of travelers. The next sections summarize some of the important findings of several published studies based on travel statistics derived from these. Through 1995, they were known as the National Personal Transportation Survey (NPTS). For 2001, the NPTS was combined with the American Travel Survey sponsored by the Bureau of Transportation Statistics and renamed the National Household Travel Survey (NHTS).⁸

Some caution is in order, however, since the data presented below are based on national samples of individual respondents and therefore, the relationships that exist for the nation as a whole might or might not hold at the local or regional level. Transit use is concentrated in large, older urban areas, particularly New York, Boston, Chicago, San Francisco, Los Angeles, Philadelphia, Washington D.C., and Baltimore. Though it is possible to extract data from the sample population for selected urban areas, the sample sizes would be quite small and therefore the margins of error would be correspondingly much larger. However, national transportation policies clearly have significant influence over local transit service throughout the country, and thus the findings presented below will have some practical relevance for Los Angeles, and the nation as a whole. Further, the relative dearth of detailed demographic travel data by metropolitan areas points to the need for more focused studies to understand how local transit policies may produce

⁸Due to changes in data methodology, the 1995 and 2001 surveys are not directly comparable to the previous surveys. The FHWA has provided adjusted figures for 1990 to facilitate comparisons with the later surveys. Data from the surveys may be found at www.bts.gov/ntda/npts.

disparate impacts on racial, ethnic, age, income or other groups in particular areas.

Perhaps the most significant thing to note about public transit is the relatively small role it plays in most people's lives. Despite broad public support for mass transit, the automobile is the mode of choice for the vast majority of travelers, including the poor. In fact, private vehicle use is far more important than transit in all but the oldest and largest metropolitan areas, as discussed in Chapter Two. Transit accounts for only a small percentage of all trip making, and even among the poor and other transit dependent populations automobile use dominates.⁹ This is due to a number of factors, including rising personal income and automobile ownership rates and ongoing metropolitan dispersion. While transit ridership constitutes but a small percentage of all trips taken, a substantial percentage of transit riders depend on it as a principal mode of transportation, either because there are no autos in the household or there are fewer vehicles than drivers.

From the early 1970s to 1990, while automobile use, especially privately owned vehicle (POV) travel, increased dramatically, transit use in general remained fairly constant, increasing only slightly. As a result, the percentage of all trips made by transit, particularly buses, decreased. In 1969, 7.8 percent of all unlinked metropolitan trips were made by transit. Of these, 7.0 percent of all trips were made by bus and 0.8 percent were by rail transit. In 1983, transit made up only 2.3 percent of all trips, and this figure

⁹Saltzman (1992); Blumenberg and Waller (2003).

declined further to 1.8 percent by 1990.¹⁰

As shown in Table A-1, between 1990 and 1995 the number of all trips increased by 24.5 percent and automobile travel on the whole increased by almost 23 percent. Public transit use increased by nearly as much but still accounted for only 1.8 percent of all trips made by transit nationwide.¹¹ A followup study of the 2001 NHTS data indicated an absolute decrease in the total number of transit trips from 1995 and, given a two percent rise in the number of all trips, a further drop in the proportion of transit trips to just 1.6 percent.¹²

¹⁰Vincent, Keyes, and Reed (1994). In large urban areas with rail transit service the share of transit trips declined from 8.8 percent to 5.2 percent over this period.

¹¹Hu and Young (1999).

¹²Hu & Reuscher (2004). Some of the apparent decline in transit use may be attributable to the fact that the 2001 NHTS reported a higher proportion of walk trips. The survey specifically targeted these trips, on the belief that they were being underreported in the previous surveys.

Table A-1. Annual Person Trips by Mode, 1990-2001 (Millions)

	1990 (A dj.)	1995	% Change 90- 95	2001	%Change 90- 01
Private Vehicle	267,029 87.7%	327,400 86.4%	22.6%	333,791 86.8%	25.0%
Public Transit	5,460 1.8%	6,638 1.8%	21.6%	6,202 1.6%	13.6%
Other Modes	31,746 10.4%	32,424 8.6%	2.1%	46,120 12.0.%	45.3%
Total	304,471 100%	378,931 100%	24.5%	384,484 100%	26.3%

Sources: Hu & Young (1999), p. 17, Table 8. Hu & Reuscher, (2004), p. 19, Table 9.
Notes: Totals include some unreported characteristics. The 1990 data were adjusted to be more comparable to 1995 and 2001 data. Category Other Modes includes taxis, motorcycles, walking and bicycling.

Not surprisingly, persons in households in large urban areas, where transit is more readily available and private vehicle ownership rates are lower, tended to take more trips by transit. Public transit use is highest in large metropolitan areas (where automobile access is also less) and declines with smaller area size. In 1977, transit use was higher in cities over one million in population with heavy rail systems compared to smaller cities and those without rail. Transit use constituted about 6 percent of all trips in large rail cities, versus 1 to 2 percent in non-rail cities. On the other hand, auto use was also lower in rail cities, 54 percent compared to 72 to 75 percent in non-rail cities.¹³

¹³Pucher & Williams (1992).

By 1995, those in living in Metropolitan Statistical Areas (MSAs) or Standard Metropolitan Statistical Areas (SMSAs) of 3 million and above in population took an average of just under 4 percent of their trips by transit (see Table A-2). By contrast, those in areas of between 1 and 3 million made just one percent of their trips using public conveyances.¹⁴ Rates of vehicle use were even higher in areas less than one million in population, and conversely transit use was very low outside of MSAs, where public transit was used only 0.2 percent of the time.

There is also significant variation in transit use by region. In their analysis of the 2001 NHTS, Pucher and Renne report that the Mid-Atlantic region has the highest transit mode share (5.8 %), compared to the Pacific (2.2%), New England (1.8%) and South Atlantic areas (1.6%). In other areas, transit use represented less than one percent of all trips.¹⁵

At the household level, transit accounted for 58 trips per household in 1990, 67 trips in 1995, and 58 again in 2001. Again, transit use was most pronounced in areas over 3 million, where the average number of trips per household were 124 in 1990, 137 in 1995, and 128 in 2001. In all other areas, the figures were below the national averages. In non-MSA areas, the number of transit trips per household was 14 in 1990, and dropped

¹⁴Hu & Young (1999), p. 14, Table 6.

¹⁵Pucher & Renne (2003), p. 54, Table 4.

to single digits in 1995 and 2001.¹⁶

Table A-2. Mode Split of Annual Person Trips by Size of MSA, 1995 (Millions)

	Not in MSA	Less than 250,000	250,000 to 1 million	1 million to 3 million	Over 3 million	All
Private Vehicle	70,717 90.1% 21.6%	27,352 89.2% 8.4%	53,315 89.4% 16.2%	58,225 88.4% 17.8%	117,790 81.7% 36.0%	327,399 86.4% 100%
Public Transit	172 0.2% 2.6%	184 0.6% 2.8%	400 0.7% 6.0%	644 1.0% 9.7%	5,329 3.7% 78.9%	6,638 1.8% 100%
Other	5,423 6.9% 16.7%	2,149 7.0% 6.6%	4,064 6.8% 12.5%	4,795 7.3% 14.8%	15,991 11.1% 49.3%	32,424 8.6% 100%
Total	78,529 100% 20.7%	30,660 100% 8.1%	59,638 100% 15.7%	65,879 100% 17.4%	144,224 100% 38.1%	378,930 100% 100%

Source: 1995 NPTS. Note, totals include trips where mode was not ascertained.

Transit Dependency and Automobile Access

One of the key factors in the diminishing role played by transit has been the ever wider availability of automobiles. Those with access to private automobiles are much less likely to use public transit than those without. But, for those lacking automobile

¹⁶Hu & Reuscher (2004), p. 17, Table 7.

access, public transit can be vital for access to jobs, schooling, medical care, and other necessities of life. Over the years, the number of households that do not own a vehicle has gradually declined. In 1969, they represented 20.6 percent of all households. In 2001, they made up just 8.1 percent of all households.¹⁷

More than 90 percent of all households in 1995 owned at least one automobile, and roughly 60 percent have two or more cars at their disposal. The comparable figures in 1969 were 80 percent and 31 percent, respectively.¹⁸ Clearly, as automobile use has become more ubiquitous, the negative consequences for those who remain without auto access are increasing. Even in households with one or more vehicles, there may be any number of non-drivers or there may be more drivers or workers than the number of vehicles available, which could mean that some family members may have to rely on others for rides, seek out alternative transportation, or forego some trips. The near doubling in the proportion of multiple car households over the past three decades is especially significant for transit ridership as it means greater individual automobile access when there is more than one licensed driver in the household. During that time, the average number of vehicles per household rose from 1.16 to 1.89, an increase of 63 percent.¹⁹ Even so women, especially older women, are more likely to be in households

¹⁷1977 NPTS, 2001 NHTS.

¹⁸U.S. DOT (1999); Pucher (1998).

¹⁹Hu & Reuscher, (2004), p. 32, Table 17.

without a vehicle, or ones with less than one vehicle per driver.²⁰

The proportion of households without vehicles varies somewhat depending on the size of the metropolitan area. Automobile availability is somewhat lower in larger areas, especially those more likely to have public transit systems. In 1995, in non-MSA areas and cities of less than 250,000 population, only around 5 percent of households were without a vehicle (see Table A-3). On the other hand, in metropolitan areas over 3 million in population, over 11 percent of households were without a car.²¹ Only 6 percent of households outside of MSAs were carless in 2001, similar to 1995. Six to seven percent of households in areas of between 250,000 and 3 million in population are without cars, compared to almost 12 percent of households in areas over 3 million.²²

²⁰Doyle & Taylor (1999).

²¹Hu & Young (1999), p. 32, Table 18.

²²Hu & Reuscher (2004), p. 34, Table 19.

Table A-3. Household Vehicle Availability by MSA Size Group, 1995

	Not in MSA	Less than 250,000	250,000 to 999,999	1,000,000 to 2,999,999	3,000,000 or more	All
No Vehicles	5.3%	4.8%	6.8%	6.9%	11.3%	8.1%
One Vehicle	30.0%	32.1%	31.5%	33.2%	33.7%	32.4%
Two Vehicles	40.8%	43.4%	40.9%	41.4%	39.0%	40.4%
Three or More Vehicles	23.9%	19.7%	20.8%	18.5%	16.0%	19.1%

Source: 1995 NPTS.

Automobility also decreases with population *density*, and is particularly striking in areas containing more than 10,000 persons per square mile, where about one-third of households lack an automobile. In the least dense areas, those with less than 2000 persons per square mile, 96 percent of households own at least one car and about 70 percent own two or more.²³

²³Hu & Young (1999), p. 30, Table 17.

Transit Use by Transit Dependents

Transit use declines quickly with increasing automobile access. In the 1995 survey, those in households with at least one vehicle used transit on average just 1 percent of the time and those with two or more household vehicles took transit half as often.²⁴ Even among those living in households that did not own an automobile transit use was not especially high, a fact rarely acknowledged by the Bus Riders Union and others who advocate transit on behalf of the poor. Overall, persons in carless households made roughly 20 percent of their trips by transit, ten times more transit trips than all persons combined (see Table A-4). Hardly surprising, among those without cars, walking represent a significant means of travel, but even those without automobile access used private vehicles for more than one-third of all their trips. Put another way, people commonly described as transit dependents depend significantly more on private vehicles for mobility, than on public transit, on average.

²⁴1995 NPTS.

Table A-4. Mode Split by Automobile Availability, 1995 (Millions)

	No Auto	1 or more automobiles	3 or more automobiles	All
Private Vehicle	6,123 37.8%	321,278 88.6%	92,229 91.1%	327,399 86.4%
Public Transit	3,151 19.4%	3,490 1.0%	477 0.5%	6,638 1.8%
Other mode	5,747 35.5%	26,675 7.4%	5,832 5.8%	32,424 8.6%
Walking	4,647 28.7%	15,678 4.3%	2,982 2.9%	20,235 6.1%
Other non-walking	1,100 6.8%	10,997 3.0%	2,850 2.8%	9,563 3.4%
All Modes	16,208 100%	362,722 100%	101,288 100%	378,930 100%

Source: 1995 NPTS.

Among non-vehicle households, those in large metropolitan areas, like Los Angeles, made far more trips on average by public transit than those in smaller areas, accounting for a total of 28.8 percent of all trips in areas with 3 million people or more, compared to 13.8 percent in areas with 1 to 3 million people, and 8.2 percent in areas with between 250,000 and 1 million people, while only 1.9 percent of transit trips by carless households occurred in non-MSA areas.²⁵ In the largest urban areas, it should be noted, households without vehicles actually averaged more trips per year by transit than

²⁵Hu & Young (1999), p. 53, Figure 14.

by automobile. In smaller urban areas, transit still accounted for a sizable proportion of trips (see Table A-5). Households without cars took on average 394 transit trips per year compared to just 38 where at least one automobile was available, and 25 where three or more are present. In areas over 3 million, zero vehicle households average over 600 transit trips compared to only 77 for one or more vehicle homes.

Table A-5. Household Trips and Mode Split by Zero-Vehicle Households, by Size of Area, 1995

	Not in MSA	Less than 250,000	250,000 to 1 million	1 million to 3 million	Over 3 million	All
POV	1169 66.0%	735 56.6%	938 52.6%	968 52.7%	570 25.1%	766 37.7%
Public Transit	29 1.6%	119 9.2%	159 8.9%	245 13.3%	609 26.8%	394 19.4%
Walk	354 20.0%	325 25.0%	341 19.1%	328 17.8%	791 34.8%	582 28.7%
Other	73 4.1%	69 5.3%	171 9.6%	175 9.5%	141 6.2%	138 6.8%
All Modes	1773 100%	1299 100%	1782 100%	1838 100%	2271 100%	2029 100%

Source: 1995 NPTS. Note, totals include where mode was not ascertained.

Similar results were obtained from the 2001 NHTS. Nationally, in 2001 non-drivers used transit for 10 percent of trips compared to only 1 percent for drivers. Non-

drivers were far more likely to use transit than drivers in all areas, but in areas over 3 million, while drivers used transit just over 2 percent of the time, non-drivers took transit about 17 percent of the time.²⁶

Immigrants are also more likely to use transit in all areas. In 2001, those born in the U.S. used transit between one and two percent of the time, while immigrants used it more than 4 percent. In areas over 3 million, the transit share of trips for native born was 3 percent, but it was 6 percent for those born elsewhere. The difference is likely due to lower incomes, and lack of access to automobiles and/or drivers licenses, but it is important to recognize that immigrants nevertheless make up a significant portion of the transit dependent population. For example, Meyers found that, in Southern California, more than half of all transit riders are foreign born.²⁷

Transit dependents differ in some significant respects from the general population which, given that they account for nearly half of all transit trips, substantially affects the overall composition of transit riders in general. Women make up 65 percent of those in carless households, compared to just over half of the general population. Those over 65 constitute one fourth of persons without automobile access whereas they make up only 12 percent of all persons. Among this age group, 84 percent are women. Two-thirds of

²⁶Hu & Reuscher (2004), p. 56, Figure 14.

²⁷Myers (1996).

households without automobiles have annual incomes less than \$30,000 in contrast to only one-third of all households and nearly 60 percent of those are members of minority groups versus just one quarter of the general population. In sum, though transit dependents make up only about 6 percent of the population, they are disproportionately female, particularly among elderly non-drivers, and they are overwhelmingly poor and non-white.

General Characteristics of Transit Riders

Given that women outnumber men in the population by roughly 51 to 49 percent, it may not be surprising to learn that women account for more public transit trips than men, but the magnitude of the difference is far greater than might be expected. Nearly 57 percent of all transit trips are made by women versus just over half of all vehicles trips, as shown in Table A-6.²⁸ And, even accounting for population differences, women are more likely to use public transit than men; 2.0 percent of women s trips involve transit compared to only 1.6 percent of men s trips. On a per capita basis, while women make more transit trips per person than men (30 to 25), men in fact take more private vehicle trips per person than women (1360 to 1349).

²⁸Public transit includes buses, streetcars, subways, elevated rail, and commuter trains.

Table A-6. Mode Split of Transit Trips by Gender, 1995 (Millions)

	Men	Women	All
Private Vehicle	160,009 86.2% 48.9%	167,390 86.6% 51.1%	327,399 86.5% 100%
Public Transit	2,884 1.6% 43.4%	3,753 2.0% 56.6%	6,638 1.8% 100%
Other	16,787 9.1% 51.8%	15,637 8.2% 48.2%	32,424 8.6% 100%
Total	185,735 100% 49.0%	193,196 100% 51.0%	378,931 100% 100%

Source: 1995 NPTS.

As a large proportion of transit trips are work related (see below) transit use is naturally higher among adults, particularly those of working age. Nearly seventy percent of trips are made by those between the ages of 21 and 65. Still, over 9 percent of transit riders are age 65 or older. The rate is even higher in smaller urban and rural areas. Children and young adults account for about one-quarter of all transit trips (see Table A-7).

Transit use across all age groups is again low compared with the high proportion of automobile trips. Transit use is highest proportionally among those aged 16 to 20 and

is otherwise above average only for those in the 21 to 35 year age bracket. The elderly, those over age 65, are about as likely to use transit as other age groups in the population; less than 2 percent of trips taken by seniors use transit.²⁹

Table A-7. Mode Split of Annual Person Trips by Age, 1995 (Millions)

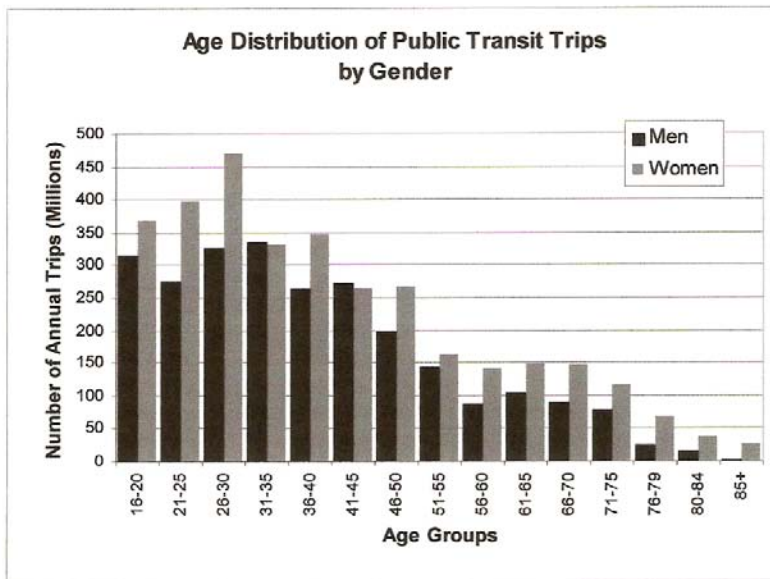
	Under 16	16-20	21-35	35-65	Over 65	All
Private Vehicle	40,374 69.3% 12.3%	24,430 84.5% 7.2%	91,708 88.6% 28.3%	139,446 91.1% 42.6%	31,445 89.1% 9.6%	327,400 86.4% 100%
Public Transit	816 1.4% 12.3%	683 2.4% 10.3%	2,140 2.1% 32.2%	2,398 1.6% 36.1%	601 1.7% 9.1%	6,640 1.8% 100%
Other	13,693 23.5% 42.2%	2,761 9.6% 8.5%	6,421 6.2% 19.8%	7,341 4.8% 22.6%	2,208 6.3% 6.8%	32,421 8.6% 100%
Total	58,255 100% 15.4%	28,905 100% 7.6%	103,466 100% 27.3%	153,008 100% 40.4%	35,299 100% 9.3%	378,930 100% 100%

Source: 1995 NPTS.

Women transit riders outnumber men in nearly all age categories, as shown in Figure A-1, which compares transit use by men and women in 5-year age brackets. Women make up the majority of transit users in all but the 31-35 and 41-45 age groups, and women over age 75 account for far more transit trips than comparably aged men.

²⁹Pucher (1998), Exhibit 11.

Figure A-1. Age Distribution of Public Transit Trips by Gender, 1995

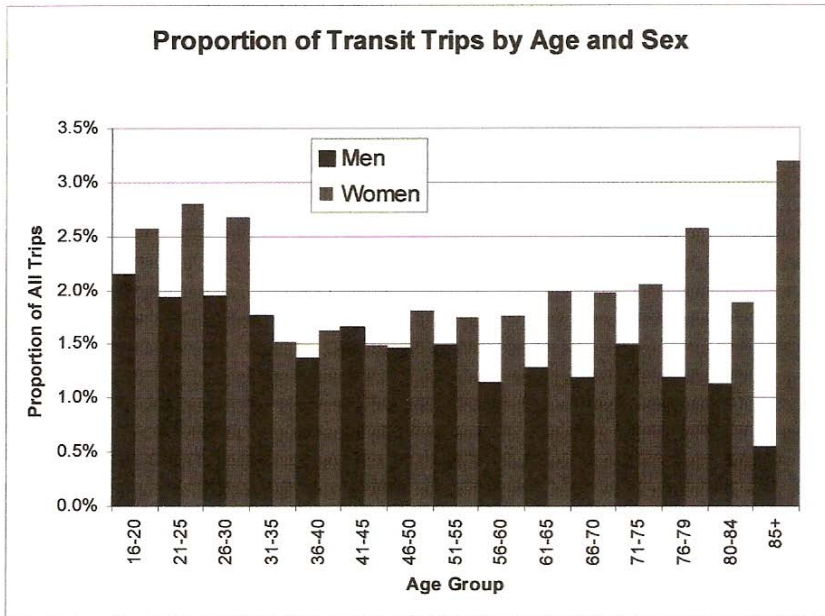


Source: 1995 NPTS.

Women of nearly all ages are more likely to take public transit than men. Figure A-2 depicts the propensity to make transit trips among men and women by 5-year age groups. Men's propensity for transit use declines rather dramatically with age, likely due to greater automobile license and usage rates among elderly men. Women's propensity for transit is greater than men's for nearly all age groups especially after age 65, where women substantially outnumber men in the population.³⁰

³⁰Women make up over 58 percent of those over age 65. 1995 NPTS.

Figure A-2. Proportion of Public Transit Trips by Age and Sex, 1995



Source: 1995 NPTS.

As summarized in Table A-8, elderly women continue to use transit more than men in their later years, and due to their higher propensity for transit use as well as their greater proportion in the population, women constitute the overwhelming majority of elderly transit riders. While persons over age 65 make up less than 10 percent of transit riders, nearly 65 percent of elderly riders are women, compared to 58 percent in the population generally. The greater propensity of women to use transit may be due to a number of factors, including income, access to automobile, or the types of trips women

take compared to men. The fact that older women on the whole were less likely to be licensed in their younger years also plays a role.

Table A-8. Public Transit Trips by Gender and Age Group, 1995 (Millions)

	Under 16	16-20	21-35	36-65	Over 65	All
Men	343	315	938	1,070	214	2,884
	11.9%	10.9%	32.5%	37.1%	7.4%	100%
	42.0%	46.1%	43.8%	44.6%	35.6%	43.4%
Women	473	368	1,200	1,329	388	3,753
	12.6%	9.8%	32.0%	35.4%	10.3%	100%
	58.0%	53.9%	56.2%	55.4%	64.4%	56.6%
All	816	683	2,140	2,398	601	6,640
	12.3%	10.3%	32.2%	36.1%	9.1%	100%
	100%	100%	100%	100%	100%	100%

Source: 1995 NPTS.

Transit Travel by Trip Purpose

As shown in Table A-9, in 1995 only about 4 percent of all work trips used transit, compared to between 18-19 percent of private vehicle trips. Work trips account, however, for the largest proportion of all transit trips, over one-third, compared to less than 19 percent of private vehicle trips. These transit trips are more likely to be taken during morning and evening rush hours than other types of trips. Family/personal trips

were the next largest category, followed by school/church trips and social/recreational. Only trips to school and church used public transit about as frequently as work trips, representing 2.5 percent of such trips (with about one-third of these trips using means other than private autos or public transit, mainly school buses).³¹

Table A-9. Mode Split of Annual Person Trips by Trip Purpose, 1995 (Millions)

	To or from work	Work-related	Family and Personal	School / Church	Social / Recreational	Other	All
Private Vehicle	60,740 90.8% 18.6%	8,835 89.6% 2.7%	156,064 89.8% 47.7%	22,436 67.3% 6.9%	78,809 83.5% 24.1%	470 75.3% 0.1%	327,400 86.4% 100%
Public Transit	2,328 3.5% 35.1%	123 1.2% 1.9%	2,002 1.2% 30.2%	826 2.5% 12.4%	1,350 1.4% 20.3%	11 1.8% 0.2%	6,640 1.8% 100%
Other	2,397 3.6% 7.4%	658 6.7% 2.0%	10,523 6.1% 32.5%	8,960 26.9% 27.6%	9,799 10.4% 30.2%	84 13.5% 0.3%	32,421 8.6% 100%
All Modes	66,901 100% 17.7%	9,860 100% 2.6%	173,763 100% 45.9%	33,355 100% 8.8%	94,362 100% 24.9%	623 100% 0.2%	378,930 100% 100%

Source: Hu & Young (1999), p. 17, Table 8 (additional calculations by author based on 1995 NPTS).

In 2001, public transit accounted for 3.7 percent of all work trips, slightly less

³¹Hu & Young (1999); p.17, Table 8; Hu & Reuscher (2004), p. 19, Table 9.

than in 1995. All other categories also showed slight declines. Similar to 1995, work trips account for roughly 37 percent of all transit trips, more than double the proportion of private vehicle work trips. The next largest portion of transit trips, about 29 percent, are for shopping, family and personal purposes, compared to almost half of private vehicle trips, followed by social and recreational trips, about 16 percent compared to one quarter of vehicle trips. Trips to school or church account for about 13 percent of transit trips but less than nine percent of automobile trips.

Vehicle access again appears to have a significant impact on the use of transit for work trips. Transit accounted for a larger proportion of work trips for those without cars, 38.5 percent, compared to just 3.5 percent of trips by all persons. In comparison, the average commuter with car access used transit only about 2.1 percent of the time. Households without vehicles also used public transit far more for work trips than those in households with auto access. Those without cars make nearly 40 percent of their work trips by public transit. On the other hand, public transit does capture a larger share of trips to and from work by those with some auto access than other types of trips. Put another way, when those with access to an automobile do use transit it is primarily to get to and from work; 40 percent of their transit trips are work trips compared to less than 30 percent for those without cars. Indeed, while those with cars take about 53 percent of all transit trips, they take 61 percent of all transit work trips but less than half of other types of transit trips, except those to school or church (see Table A-10).

Table A-10. Transit Trips by Trip Purpose and Auto Availability, 1995 (Millions)

	To or from work	Work- related	Family and Personal	School / Church	Social / Recrea- tional	Other	All
All	2,328 100% 35.1%	123 100% 1.9%	2,002 100% 30.2%	826 100% 12.4%	1,350 100% 20.3%	11 100% 0.2%	6,640 100% 100%
No car	907 39.0% 28.8%	43 35.0% 1.4%	1,170 58.4% 37.1%	319 38.6% 10.1%	707 52.4% 22.4%	3 27.3% 0.1%	3,151 47.5% 100%
1+ Cars	1,421 61.0% 40.7%	80 65.0% 2.3%	832 41.6% 23.8%	507 61.4% 14.5%	643 47.6% 18.4%	8 72.7% 0.2%	3,489 52.5% 100%
3+ Cars	183 7.9% 38.4%	18 14.6% 3.8%	119 5.9% 25.0%	65 7.9% 13.7%	89 6.6% 18.7%	2 18.2% 0.4%	476 7.2% 100%

Source: 1995 NPTS.

Men and women tend to use transit for different purposes. Men make more transit work trips and are more likely to use transit for work purposes. Women, however, make more transit trips for all other purposes, especially for family and personal business. As shown in Table A-11, men account for slightly more than half of the total work trips made by transit. Women, on the other hand, take over 68 percent of all transit trips for family and personal business reasons, and almost 53 percent of social and recreational trips using transit. Men's work trips constitute a much greater proportion of men's travel by transit than do women's work trips. Work trips account for 42 percent of men's transit

trips compared to only 30 percent for women. In all, a total of 44 percent of men's transit trips are work or work-related compared to less than 32 percent for women. By contrast, women take a total of 36 percent of their transit trips for family and personal purposes versus 22 percent for men. The distribution of social and recreational trips are more comparable between sexes. Men take 22 percent of their transit trips for social or recreational purposes whereas women do so 19 percent of the time.

Table A-11. Annual Public Transit Trips by Gender and Trip Purpose, 1995 (Millions)

	To or from work	Work-related	Family and Personal	School / Church	Social / Recreational	Other	All
Men	1,209	48	630	359	637	3	2,884
	51.9%	39.0%	31.5%	43.5%	47.2%	27.3%	43.4%
	42.0%	1.6%	21.8%	12.4%	22.1%	0.1%	100%
Women	1,119	75	1,369	468	714	8	3,753
	48.1%	61.0%	68.5%	56.7%	52.8%	72.7%	56.6%
	29.8%	2.0%	36.5%	12.5%	19.0%	0.2%	100%
All	2,328	123	2,002	826	1,350	11	6,640
	100%	100%	100%	100%	100%	100%	100%
	35.1%	1.9%	30.2%	12.4%	20.3%	0.2%	100%

Source: 1995 NPTS.

Per capita, men and women average about the same number of work trips using transit while women average far more family and personal trips. On average, men make

about ten work trips per year by transit, women nine. By contrast, women make about eleven transit trips for family or personal reasons, compared to only about five for men (see Figure A-12).

Table A-12. Per Capita Trips by Mode, Trip Purpose and Gender, 1995 (Millions)

	To or from work		Family and Personal		Social / Recreational		All Trips	
	Men	Women	Men	Women	Men	Women	Men	Women
Private Vehicles	289	207	584	705	337	316	1360	1349
Public Transit	10	9	5	11	5	6	25	30
Other	12	8	40	47	46	35	143	126
All Modes	327	229	648	786	406	375	1579	1558

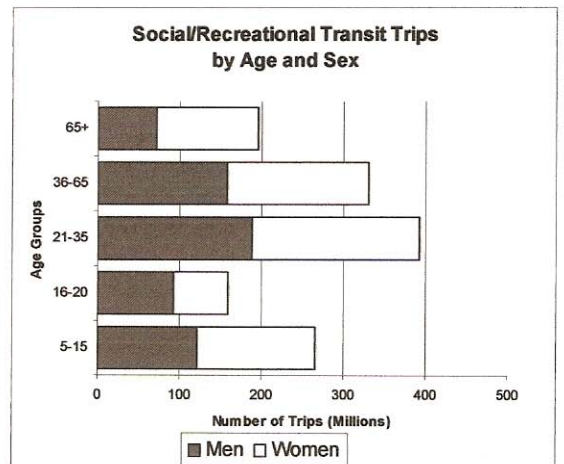
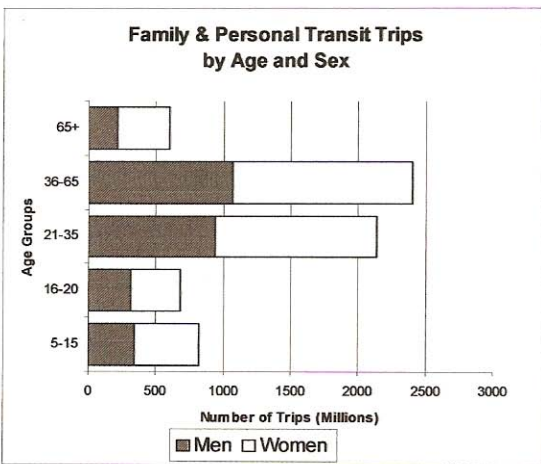
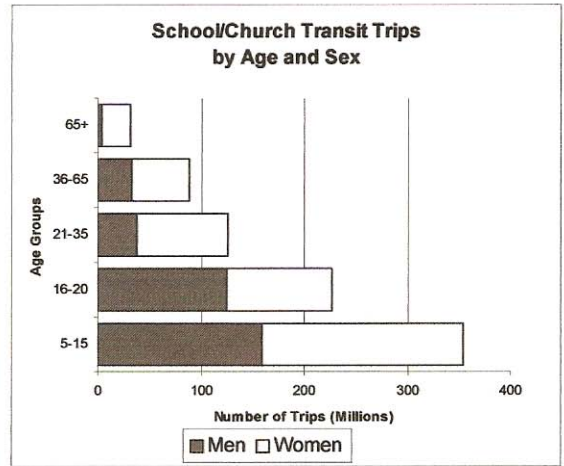
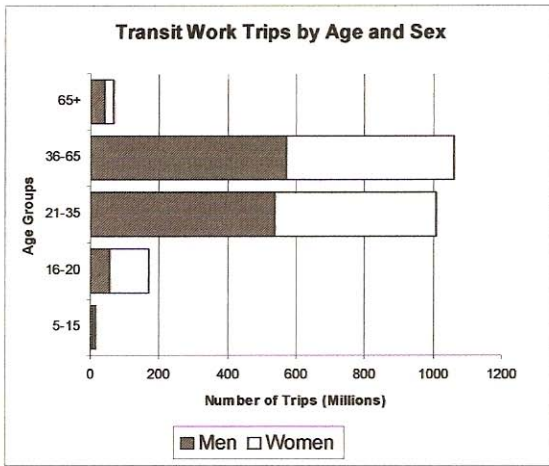
Source: 1995 NPTS.

Figures A-3(a)-(d) summarize the number of transit trips by age groups and gender for different trips purposes. Women constitute a higher percentage of all trips as age increases, with the exception of work trips. As would be expected, men and women aged 21 to 65 account for the vast majority of work trips. Men and women average about the same number of work trips overall, however, men over age 21 years old account for more transit work trips than women. The average number of transit work trips declines

with age for both sexes. Young riders dominate school and church trips, while social/recreational trips are more evenly distributed. Finally, women make far more transit trips than men for family and personal reasons in nearly all age categories.

In addition to different patterns of transit versus automobile use by men and women, young and old, transit dependents and choice riders, there are substantial differences in how transit riders as a group use different transit modes (bus, subway, commuter rail). In general, as discussed in the next section, middle aged men are more likely to take commuter rail and subways, particularly for work trips, while women, young persons, and older persons, make up a larger share of bus and streetcar riders, especially in off-peak periods. Race and income also play a significant role in these modal dichotomies, as discussed below.

Figure A-3. Gender Split of Transit Trips by Age Group by Trip Purpose, 1995



Source: 1995 NPTS

Transit Use by Mode

Table A-13 summarizes data from the 1995 NPTS showing mode splits for all trips 75 miles or less in length within MSAs, for which the mode used could be determined, broken down by population size of the MSA.³² Overall, trips by transit account for just 2.2 percent of travel. Transit use is noticeably higher in areas over 3 million in population. Nearly three-quarters of all bus trips occur in areas over 3 million, but 98 percent of subway and commuter train trips do. In areas over 3 million in population, about 61 percent of all transit trips are by bus, while subway and commuter rail use is about 27 percent and 12 percent respectively.³³

³²Given the negligible use of transit outside MSA areas (see Table A-2 above), for purposes of comparing travel behavior by transit mode, the remainder of the discussion in this chapter will be limited to person trips in MSA areas and further restricted just to those trips of less than 75 miles in length in order to eliminate non-typical travel, such as vacations and irregular business trips.

³³Note, the category bus includes streetcar/trolley; subway includes elevated rail.

Table A-13. Transit Mode Split by Size of MSA, 1995 (Millions)

	Less than 250,000	250,000 to 499,999	500,000 to 1 million	1 million to 3 million	Over 3 million	All
Bus	163 0.6% 3.8% (94.8%)	114 0.4% 2.6% (99.1%)	261 0.9% 6.0% (90.1%)	616 1.0% 14.3% (97.2)	3,164 2.3% 73.3% (61.0%)	4,318 1.5% 100% (67.8%)
Subway	9 0% 0.6% (5.2%)	0 0% 0% (0.0%)	3 0% 0.2% (1.1%)	12 0% 0.8% (1.9%)	1,403 1.0% 98.3% (27.1%)	1,427 0.5% 100% (22.4%)
Commuter Train	0 0% 0% (0.0%)	1 0% 0.2% (0.9%)	2 0% 0.3% (0.8%)	6 0% 1.0% (0.9%)	619 0.4% 98.6% (11.9%)	628 0.2% 100% (9.8%)
All Transit	172 0.6% 2.7% (100%)	115 0.4% 1.8% (100%)	266 0.9% 4.2% (100%)	634 1.0% 9.9% (100%)	5,186 3.8% 80.6% (100%)	6,373 2.2% 100% (100%)

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Two-thirds of all transit trips occur in urban areas, where 8.3 percent of all trips are by transit, the majority by bus (see Table A-14). Bus trips account for about two-third of all transit trips in urban and suburban areas. Smaller cities and suburbs are next in terms of bus use. Urban areas also capture 85 percent of subway trips and over half of commuter rail trips; suburbs alone account for another one-third. There are three times as many subway trips as commuter train trips taken within urban areas, but in suburban areas the situation is reversed as train trips outnumber those on subways.

Suburban areas and second cities capture about 16 percent each of the remaining bus trips and Subway and train use is negligible outside of city and suburban areas.

Table A-14. Transit Mode Split by Urban Status, 1995 (Millions)

	Urban	Suburban	Rural	Second City	Town	All
Bus	2,766	671	22	697	120	4,318
	5.3%	0.7%	0.1%	1.1%	0.2%	1.5%
	64.1%	15.5%	0.5%	16.1%	2.8%	100%
	(64.2%)	(65.3%)	(84.6%)	(88.1%)	(71.4%)	(67.8%)
Subway	1,199	152	1	58	14	1,427
	2.3%	0.2%	0.0%	0.1%	0.0%	0.5%
	84.9%	10.7%	0.1%	4.1%	1.0%	100%
	(27.8%)	(14.8%)	(3.8%)	(7.3%)	(8.3%)	(22.4%)
Commuter Train	346	205	3	36	34	628
	0.7%	0.2%	0.0%	0.1%	0.1%	0.2%
	55.1%	32.6%	0.5%	5.7%	5.4%	100%
	(8.0%)	(20.0%)	(11.5%)	(4.6%)	(20.2%)	(9.9%)
All Transit	4,311	1,028	26	791	168	6,373
	8.3%	1.1%	0.1%	1.3%	0.3%	2.2%
	67.6%	16.1%	0.4%	12.4%	2.6%	100%
	(100%)	(100%)	(100%)	(100%)	(100%)	(100%)

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Here again, access to automobiles is also a factor in transit mode split (see Table A-15). Nearly half of all bus and subway riders, and one-third of commuter train riders, are from households with no vehicle access. Roughly, another one-third of all transit riders were from one-vehicle households. While persons from two or more vehicle

households account for only 14 percent of bus and subway riders, they made up nearly 37 percent of commuter rail patrons. In sum, transit dependents were more likely to ride buses, while so-called choice riders made up a larger share of commuter rail patrons.

Table A-15. Transit Trips and Mode Split by Auto Availability, 1995

	Number of Vehicles in Household				
	0	1	2	3 or more	All
Bus	2,117 49.0%	1,340 31.0%	575 13.3%	287 0.6%	4,318 100%
Subway	771 54%	446 31.3%	159 11.1%	51 3.6%	1,427 100%
Commuter Train	216 34.4%	181 28.8%	143 22.8%	87 13.9%	628 100%
All Transit	3,104 48.7%	1,967 30.9%	877 13.8%	425 6.7%	6,373 100%

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Gender and Age Effects

The choice of transit mode is also affected by gender and age. Data from the 1977 NPTS survey showed that women made 56 percent of bus and streetcar trips, 45 percent of subway trips, but only 37 percent of trips by commuter rail.³⁴ Over a decade later,

³⁴Pucher et al. (1981), Tables X, XI & II (from 1977 NPTS data).

women continued to make up a higher proportion of transit riders (55% to 45%) and bus riders (57% to 43%). Now, however, women also took more subway trips than men (52% to 48%), but still trailed in commuter rail trips although the gap had narrowed considerable to 46 percent versus 54 percent.³⁵

Data from the 1995 NPTS, though not directly comparable, reveal much the same pattern (see Table A-16). Two-thirds of all transit trips are by bus, 22 percent by subway, and 10 percent by rail. Roughly 57 percent of all transit riders are women, however, there are significant differences by transit mode. Women make far more bus trips than men, though fewer subway and train trips: 61 percent of all bus and light rail riders are women but they are only 48 percent of subway and heavy rail users, and 47 percent of commuter rail patrons. Again, women make up roughly 51 percent of the sampled population.

Women are somewhat more likely to take buses than men, 1.8 percent compared to 1.2 percent, while use of subway, heavy rail, and commuter rail is about equal between men and women. As such, nearly 73 percent of women's transit trips are bus trips versus only 63 percent of men's. Adjusting for the higher percentage of women in the population, women still make more bus trips per person per year than do men (27 to 18). Per capita subway and commuter train trips are about equal.

³⁵Pucher & Williams (1992), Tables XI, XII & XIV (from 1990 NPTS data).

Table A-16. Mode Split of Annual Person Trips by Gender, 1995 (Millions)

	Men		Women		All	
Bus / Streetcar	1,692	61.3%	2,626	72.7%	4,318	67.8%
	1.2%		1.8%		1.5%	
	39.2%		60.8%		100%	
Subway/ Heavy Rail	738	26.7%	688	19.1%	1,426	22.4%
	0.5%		0.5%		0.5%	
	51.8%		48.2%		100%	
Commuter Train	332	12.0%	296	8.2%	629	9.9%
	0.2%		0.2%		0.2%	
	52.8%		47.1%		100%	
All Transit	2,762	100%	3,610	100%	6,373	100%
	2.0%		2.5%		2.2%	
	43.3%		56.6%		100%	

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Surveys have shown that both young and older people ride buses more than those in the middle age groups but are less frequent riders of subways and commuter trains.³⁶ According to 1995 NPTS data, transit riders aged 16 to 25 years constituted about twenty percent of trips by all transit modes (see Table A-17). They were also more likely to take all forms of public transit than any other age group. Only those aged 26 to 40 were as likely to take subway and light rail (0.7%) and commuter rail (0.3%) as those in the 16-25

³⁶Pucher and Williams (1992). In 1990, young persons constituted about 13 percent of bus riders but only 4 percent of subway and 1 percent of commuter train patrons. Those over 65 years of age, made only 6.5 percent of all bus trips but used subway and rail service for only about 3 percent of all trips by those modes. On the other hand, sixteen to 40 year olds favored subways and commuter rail, while those between 40 and 65 years of age were more or less equally represented on all three modes.

bracket. This groups represented the largest number of transit riders and accounts for 45 percent of subway riders, 41 percent of train riders, but only 27 percent of bus users. The elderly made up 11 percent of bus riders, but only 3 and 2 percent of subway and commuter train riders, respectively. In short, subway and train use is more heavily skewed toward middle aged riders than is bus travel.

Table A-17. Transit Mode Split by Age, 1995 (Millions)

	Under 16	16-25	26-40	41-65	Over 65	All
Bus	646	888	1,554	1,168	462	4,318
	1.5%	2.0%	1.3%	1.4%	1.8%	1.5%
	15.0%	20.6%	26.7%	27.0%	10.7%	100%
	(85.8%)	(67.7%)	(56.4%)	(67.3%)	(86.5%)	(67.8%)
Subway	86	295	636	362	46	1,426
	0.2%	0.7%	0.7%	0.4%	0.2%	0.5%
	6.0%	20.7%	44.6%	25.4%	3.2%	100%
	(11.4%)	(22.5%)	(31.1%)	(20.8%)	(8.8%)	(22.4%)
Train	21	129	257	207	14	629
	0.0%	0.3%	0.3%	0.2%	0.1%	0.2%
	3.3%	20.5%	40.9%	32.9%	2.2%	100%
	(2.8%)	(9.8%)	(12.6%)	(2.7%)	(2.7%)	(9.9%)
All Transit	753	1,312	2,047	1,737	522	6,373
	1.8%	3.0%	2.3%	2.0%	2.0%	2.2%
	11.8%	20.6%	32.1%	27.3%	8.2%	100%
	(100%)	(100%)	(100%)	(100%)	(100%)	(100%)

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Travel by Trip Purpose

Although transit accounts for an increasingly smaller share of all work trips,³⁷ transit riders as a group are more likely to use transit for work trips than for other trip purposes (see Table A-18). Most transit work trips employ buses, but subways and commuter trains are used much more heavily for work trips. In 1995, over half of all transit work trips employed buses and 30 percent were by subway, while less than 17 percent took commuter trains. Buses captured even higher proportions of other trips. Yet, while work trips amounted to less than 30 percent of bus trips, they represented about half of subway trips and over 60 percent of commuter train trips. Thus, while only a small number of all work trips use transit, commuter rail use is predominately work-related.

³⁷Buses and streetcars captured about 3.5 million workers in 1990, or 3.1 percent of all workers, compared to 3.9 million, or 4.1 percent, in 1980. Subways and elevated rails took 1.7 million persons, or 1.5 percent of all workers, to work in 1990, a gain of about 200,000 riders from a decade earlier, but slight drop in percentage from 1.6 percent of commuters. Similarly, commuter rail experienced a decline from 0.6 percent of commuters in 1980 to 0.5 percent in 1990, through overall ridership grew by around 20,000. Thus, while subways and rail gained riders and buses lost riders, all transit modes experienced declines in mode share over the decade. Pisarski (1996), Chapter 3. The downward trend continued throughout the 1990s. In 1995, commuters used transit for just 4.5 percent of urban work trips. In 2001, it was used even less frequently, just 3.7 percent of the time. Buses and light rail accounted for 2.1 percent, down from 2.4% in 1995. Subway/heavy rail accounted for 1.1 percent of work trips and commuter trains 0.5 percent, compared to 1.3 percent and 0.8 percent respectively in the previous survey. Pucher & Renne (2003), p. 53, Table 3.

Table A-18. Annual Public Transit Trips by Mode and Trip Purpose, 1995 (Millions)

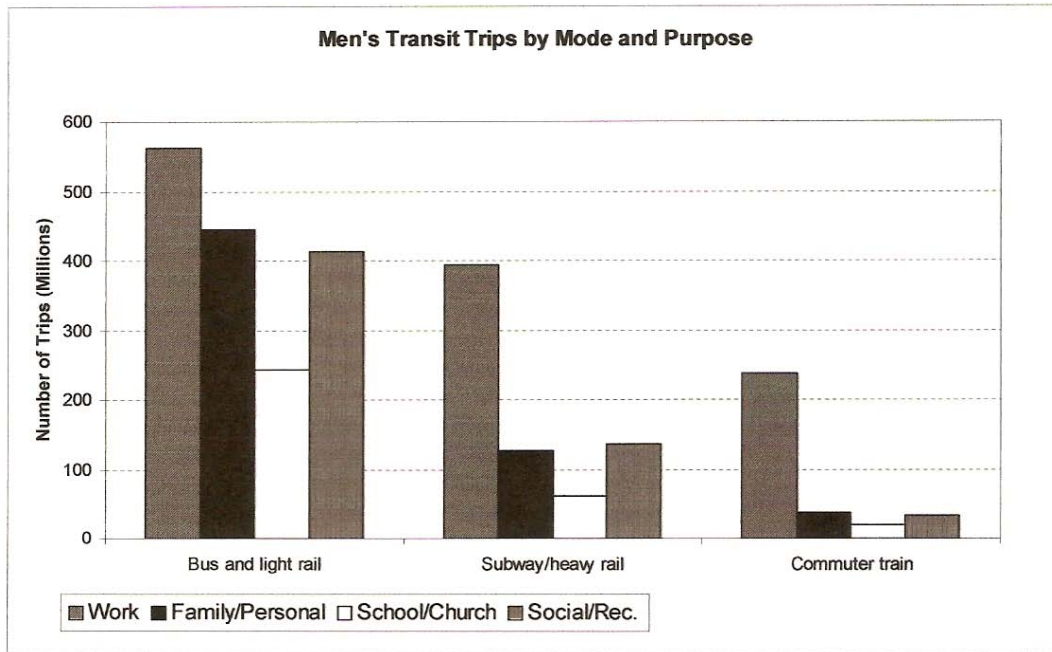
	To or from work	Work-related	Family and Personal	School / Church	Social / Recreational	Other	All
Bus	1,236	77	1,519	603	872	11	4,318
	28.6%	1.8%	35.2%	14.0%	20.2%	0.3%	100%
	53.5%	66.4%	78.1%	78.9%	70.8%	100%	67.8%
Subway	685	33	318	127	264	0	1,426
	48.0%	2.3%	22.3%	8.9%	18.5%	0.0%	100%
	29.7%	28.4%	16.4%	16.6%	21.4%	0.0%	22.4%
Train	388	6	107	34	95	0	630
	61.7%	1.0%	17.0%	5.4%	15.1%	0.0%	100%
	16.8%	5.2%	5.5%	4.5%	7.7%	0.0%	9.9%
Total	2,309	116	1,944	764	1,231	11	6,373
	36.2%	1.8%	30.5%	12.0%	19.3%	0.2%	100%
	100%	100%	100%	100%	100%	100%	100%

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

As shown in the following figures, men use all transit modes primarily for work trips, particularly commuter rail. Women also use subways and rail transit mainly for work, though proportionately less often, but they use buses primarily for family and personal trips. Still, women use transit more often for their work trips than men, and account for more work trips by bus (see Table A-19). Women take buses for three percent of their work trips, whereas men use transit for only two percent of theirs. Men though, account for more transit work trips overall. Men and women are about equally likely to use subways and commuter trains for work, though again men account for more

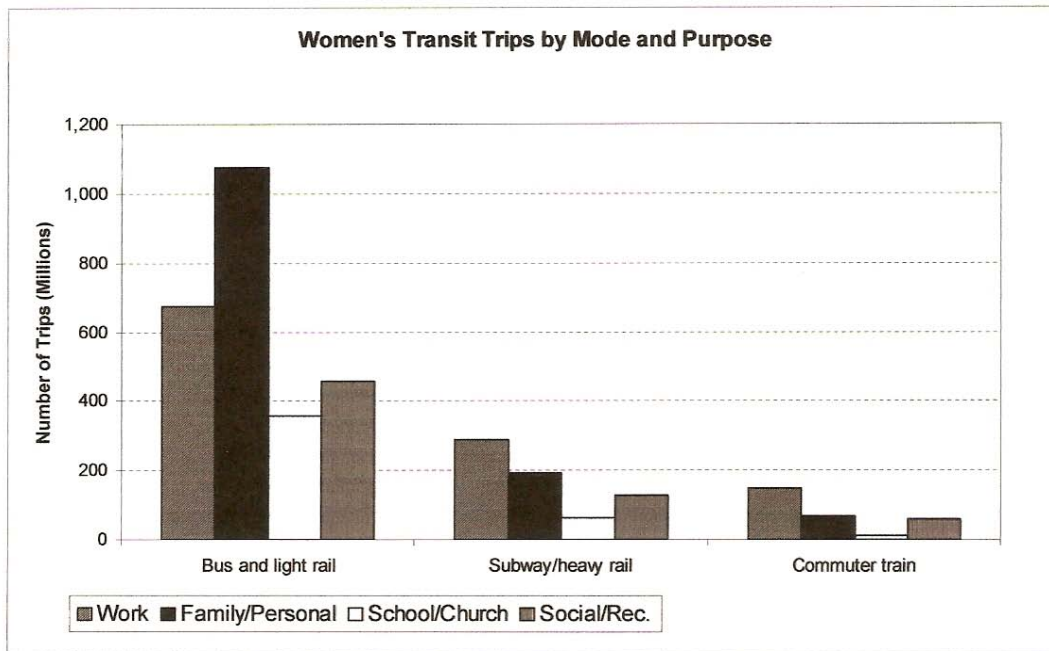
such trips. Women are more likely to use buses for other trip purposes than men and account for more of all other types of trips, especially family and personal trips. Less than two percent of women's trips for family and personal reasons use transit and only one percent of men's, though women make over twice as many such trips. Mode splits for social and recreational trips by transit are more nearly equal. In sum, gender differences are most prominent in the case of commuter train work trips where men make about 60 percent more trips, as well as family/personal trips where women make nearly twice as many trips by all transit modes.

Figure A-4. Men's Transit Trips by Mode and Purpose



Source: 1995 NPTS.

Figure A-5. Women's Transit Trips by Mode and Purpose



Source: 1995 NPTS.

Table A-19. Transit Mode Split by Trip Purpose and Gender, 1995 (Millions)

	To or from work		Family and Personal		Social / Recreational	
	Men	Women	Men	Women	Men	Women
Bus / Lt. Rail	563 1.9% (47.1%)	673 3.0% (60.5%)	446 0.8% (73.1%)	1,074 1.4% (80.5%)	413 1.2% (71.0%)	459 1.3% (70.8%)
Subway	395 1.3% (33.0%)	290 1.3% (26.1%)	127 0.2% (20.8%)	191 0.3% (14.3%)	136 0.4% (23.4%)	127 0.4% (19.6%)
Commuter Train	238 0.8% (19.9%)	150 0.7% (13.5%)	37 0.1% (6.1%)	70 0.1% (5.2%)	33 0.1% (5.7%)	62 0.2% (9.5%)
All Transit	1,196 4.0% (100%)	1,113 5.1% (100%)	610 1.0% (100%)	1,335 1.8% (100%)	582 1.6% (100%)	648 1.9% (100%)

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less.

Ridership by Income

Using data from the 1977 NPTS, Pucher et al., found that bus riders had the lowest incomes while commuter rail users had the highest.³⁸ Twenty-five percent of transit riders came from households in the lowest income category. This group made up 28 percent of all bus riders, 16 percent of subway riders and 9 percent of commuter rail users. By contrast, only 14 percent of all transit riders fell into the highest income category; 12 and 13 percent of bus and subway riders, respectively, but 38 percent of

³⁸Pucher et al., (1981).

commuter rail passengers.

Although populations were only slightly poorer in smaller SMSAs, the income of transit riders was dramatically lower and the gap in incomes between transit and auto users larger. Pucher et al., attribute this partly to the fact that the poor constitute a captive market for transit in smaller, less urban areas. They also found that those who travel at off-peak times tended to have lower incomes, as did those whose trips began in the central city as opposed to the suburbs. Only 20 percent of peak period bus riders fell into the lowest income category, compared to 34 percent of off-peak users. And low income people made up 22 percent of off-peak subway users but only 11 percent of peak period riders.³⁹

Data from the 1990 NPTS likewise showed that the poor relied less on automobiles and more on public transit than wealthier persons. Moreover, poor and minority persons were more likely to take transit trips during off-peak hours and to take shorter trips than persons from non-poor and non-minority groups. The very poor used buses about five times as often as their wealthier counterparts but used commuter rail less than half as much. Subway use was fairly comparable regardless of income.⁴⁰

³⁹Pucher, et al. (1981).

⁴⁰Pucher & Williams, (1992), Tables I and III (from 1990 NPTS data). Data was limited to trips from urban areas with a population of 50,000 or more and trips of 75 miles or less.

Compared to the 1983 survey, the 1990 income profiles of subway and commuter rail riders were more equal. Roughly 16 percent of both groups fell in the lowest income category while one-quarter had incomes between \$15,000 and \$30,000. A higher percentage of rail riders still had high incomes; 19 percent made over \$80,000 compared to 13 percent of subway patrons. Pucher et al., suggested that the construction of new subways in Atlanta, Washington, Baltimore and Miami, as well as extensions to existing systems in New York, Boston and Chicago, that were more attractive to higher income users living in less dense areas, may have contributed to the convergence of subway and rail rider incomes.⁴¹

Transit users in large cities, particularly those with developed rail systems, had higher incomes than those in smaller cities and cities without rail service. Even bus riders had higher income in large rail cities -- only one-quarter of bus riders earned less than \$15,000 compared to 35 to 40 percent in other cities. Conversely, 10 percent of bus riders in rail cities had income over \$80,000 compared to less than 3 percent in other areas.⁴² Obviously, where transit service is better relative to car travel, due to factors such as higher densities, more dense route networks, limited parking, etc., it will attract more choice riders.

⁴¹Pucher & Williams (1992).

⁴²Pucher & Williams (1992).

Mode splits from 1995 data using the same income categories were fairly comparable, as shown in Table A-20. Very poor people, those in households earning less than \$15,000 a year, make roughly 7 percent of their trips by transit, about the same as in 1990, compared to only about 2.2 percent for all income groups. Most of those trips are by bus or light rail (5.6%) with heavy rail (0.9%) and commuter rail (0.3%) making up the balance. On the other hand, only about 1.2 percent of trips in those households in the highest income category were by transit. Households in the over \$80,000 income category use commuter rail and subways about as often as the national average.

In other words, the poor took buses eleven times as often as the wealthiest, but rode subways only twice as often. Commuter rail use was fairly constant across all income categories.⁴³ Nearly one-third of those riding buses and light rail fell in the under \$15,000 category and over half in the under \$30,000 bracket, compared to only 10 percent for those making over \$50,000. In contrast, 26 percent of subway riders were in that higher income category as were 35 percent of commuter rail riders.

⁴³Pucher (1998), p. 20, Exhibit 4.

Table A-20. Transit Mode Split by Household Income, 1995 (Millions)

	Less than \$15,000	\$15,000 to \$29,999	\$30,000 to \$49,999	\$50,000 to \$79,999	\$80,000 and over	All
Bus	1,400 5.6% 32.4% (82.2%)	957 1.7% 22.2% (68.5%)	702 1.0% 16.3% (65.0%)	309 0.5% 7.2% (45.8%)	144 0.5% 3.3% (39.1%)	4,318 1.5% 100% (67.7%)
Subway	225 0.9% 15.8% (13.2%)	364 0.6% 25.5% (26.0%)	256 0.4% 18.0% (23.7%)	228 0.4% 16.0% (33.8%)	145 0.5% 10.2% (39.4%)	1,426 0.5% 100% (22.4%)
Train	78 0.3% 12.4% (4.6%)	77 0.1% 12.2% (5.5%)	121 0.2% 19.2% (11.2%)	138 0.2% 21.9% (20.4%)	79 0.2% 12.8% (21.5%)	829 0.2% 100% (9.9%)
Public Transit	1,703 6.8% 26.7% (100%)	1,398 2.5% 21.9% (100%)	1,079 1.5% 16.9% (100%)	675 1.2% 10.6% (100%)	368 1.2% 5.8% (100%)	6,373 2.2% 100% (100%)

Source: 1995 NPTS. Note: All trips within MSAs and 75 miles or less. Row totals include trips where household income was not ascertained.

In 2001, transit use declined for all income groups, across all modes, with the exception of the highest income subway and commuter train riders, where usage actually increased slightly. The most dramatic difference from the 1995 survey was the substantial increase in the number of subway and commuter train riders in the highest income category. Forty-two percent of train riders have household incomes over

\$100,000 and over sixty percent earn above \$75,000.⁴⁴

Generally speaking, lower income people take a higher proportion of their transit trips, particularly subway and train trips, in the off-peak time periods than higher income travelers, as shown in Table A-21. On the other hand, those making over \$50,000 a year take roughly twice as many peak transit trips of all types than off-peak. Results from the 2001 NHTS are comparable.⁴⁵

⁴⁴Pucher & Renne (2003), p. 61. Again, all trips were within urban areas and 75 miles or less. The 2001 income categories are roughly comparable to 1995 categories. The authors conclude that metro and commuter rail use is increasing among the affluent but falling among the poor.

⁴⁵Pucher & Rene (2003), p. 66, Table 12.

Table A-21. Transit Trips by Mode and Time of Day of Travel by Household Income, 1995

	Less than \$15,000	\$15,000 to \$30,000	\$30,000 to \$50,000	\$50,000 to \$80,000	\$80,000 and Over
Public Transit					
Peak	24.0%	24.3%	22.4%	18.6%	10.7%
Off-peak	38.8%	28.5%	19.4%	8.8%	4.4%
Bus					
Peak	31.7%	27.9%	22.5%	11.2%	6.7%
Off-peak	44.6%	26.9%	18.5%	7.4%	2.6%
Subway					
Peak	14.4%	24.9%	20.4%	25.2%	15.1%
Off-peak	22.4%	34.8%	21.6%	12.4%	8.8%
Train					
Peak	9.8%	7.7%	26.3%	37.0%	19.2%
Off-peak	25.0%	27.6%	21.9%	14.3%	11.2%

Source: 1995 NPTS data. Note: All trips 75 miles or less within MSAs.

Race and Ethnicity Differences

The NPTS provides data on the race and ethnicity of surveyed households. Some caution in interpreting the survey data is in order inasmuch as the definitions of minority have changed somewhat over the years.⁴⁶

⁴⁶Note, the designation of individual trip takers to a race or ethnicity category and their allocation to an income group is made on the basis of households, by reference to either the race and ethnicity of the reference person in the survey or the aggregated household income. In other words, while the gender of the respondent trip taker is recorded for each individual, their own race/ethnicity and individual incomes are not. Thus, for example, a trip listed as taken by a woman from a Hispanic household with a household income of between \$15,000 and \$30,000 is indeed a trip by a woman, but she may or may not be Hispanic herself, nor necessarily earn that amount by herself.

Over just the past few decades, transit ridership has clearly grown disproportionately minority compared to the population as a whole. In 1969, just 21 percent of bus riders were nonwhite.⁴⁷ In their study of the 1977 NPTS data, Pucher, Hendrikson and McNeil concluded that although African Americans and Hispanics made up only 15 percent of all SMSA trips taken in 1977, together these groups accounted for 36 percent of all transit riders, 40 percent of bus riders, and 42 percent of subway riders.⁴⁸ African Americans made up a disproportionately high share of bus trips compared to Hispanic riders while Hispanic riders took far more subway trips. A higher proportion of commuter rail trips were by Non-Hispanic Whites, though.⁴⁹

Data from the 1990 NPTS showed minority households continued to be far more dependent on public transportation than the population at large. The minority share of transit reached 60 percent; bus and subway use topped 62 percent as subway ridership edged toward the halfway mark and commuter rail use increased dramatically to 35 percent. African Americans and Hispanics represented 55 percent of bus and streetcar users, but only 38 percent of subway riders and 26 percent of those traveling by commuter

⁴⁷APTA (1992).

⁴⁸Pucher, Hendrikson, and McNeil (1981).

⁴⁹It should be noted that the authors do not specify precisely how the racial/ethnic classification was derived though the categories appear to be mutually exclusive. Thus, it cannot be determined whether Black Hispanics would be counted as African American or Hispanic.

rail.⁵⁰

Given the historic shift toward more peak period travel noted in Chapter Two, it is also important to note that racial differences exist in terms of time of travel. In 1990, non-whites made a far higher percentage of off-peak trips on buses and trains.⁵¹ Subway ridership by minorities was more nearly equal between peak and non-peak times. African Americans and Hispanics accounted for less than half of peak period transit ridership but 57 percent of off-peak ridership. These groups used all transit modes more during the off-peak, except that African Americans used commuter rail about equally during peak and off-peak periods.⁵²

Evidence from the 1995 NPTS likewise suggests that minority transit travel patterns have continued to diverge from non-Hispanic white riders in terms of mode, distance traveled and time of day of travel. The poor, racial and ethnic minorities, women and the elderly continue to rely on transit, especially buses, more than the rest of the population, but even these groups still depend mainly on automobiles to get around.⁵³ As noted above, due to changes in survey methodology, the data from the various surveys

⁵⁰Pucher & Williams (1992), Tables VII and VIII (from 1990 NPTS data).. The use of commuter rail by minorities actually quadrupled between the two surveys. On the other hand, minority use of subways fell.

⁵¹The peak period is defined as 6 to 9 am and 4 to 7 pm, weekdays. Off-peak is all other times.

⁵²Pucher & Williams (1992), Table IX (from 1990 NPTS data).

⁵³Pucher, Evans, and Wenger (1998), pp. 15-33. Data were limited to trips from MSAs and trips of 75 miles or less.

are not entirely comparable, however, the most recent data does confirm key findings from the earlier surveys.

Over all, nearly two-third of transit riders are people of color, compared to just one-third in the general population in metropolitan areas. African Americans and Hispanics make up a larger share of transit riders in more populous areas while there are more white riders in less populated towns.⁵⁴ African Americans make up 29 percent of riders, though they account for just 14 percent of all persons. Hispanic/Mexican Americans are the next largest group at 14.1 percent of transit users versus 9.5 percent overall, followed by Asian Americans who represent 3.4 percent of the transit base but just 2.7 percent of the population.⁵⁵

Looking at the overall composition of transit riders by mode, by 1995, roughly 69 percent of bus trips and 62 percent of subway trips were by nonwhite riders, but less than half of those by commuter rail (see Table A-22).⁵⁶ Half of all bus riders were African Americans, as were 35 percent of subway riders and one-quarter of those taking

⁵⁴Pisarski (1996).

⁵⁵Calculated by author from 1995 NPTS.

⁵⁶In this survey, respondents were asked to identify both whether they were of Hispanic origin or not, and to state their race as White, Black, Asian or Other. The race/ethnicity categories used in the following tables are a composite of replies to these two questions. All African Americans and Asians were counted as such without regard to Hispanic origin, while whites and other races with Hispanic origins were classified as Hispanic. For convenience only, all non-Hispanic whites are referred to as White and all other groups are classified collectively as Minority. In all, 28 percent of all persons living within MSAs came from households that could be considered minority, either African American (13 percent), Asian (3 percent), Hispanic (9 percent) or non Hispanic other (1 percent).

commuter trains. Hispanics accounted for about 13 percent of bus riders, 16 percent of subway riders, and 15 percent of commuter rail users. In contrast, Asians made up four percent of subway and train riders, and about three percent of bus users.⁵⁷ Although only 34 percent of all transit riders were white, whites made up over half of all those patronizing commuter trains, but just 38 percent of subway riders and only 30 percent of bus users.

Some caution may be in order in interpreting the data inasmuch as African American and Hispanic households were somewhat under-represented in the survey sample. While the data were weighted so that the totals more closely matched the distribution of the actual U.S. population, it is not so clear that the surveyed minority households are entirely representative of the actual minority population. Zmud and Arce suggest that the surveyed minorities are likely to more closely resemble white riders than the population as a whole and that therefore differences in ridership patterns between minorities and non-minorities are actually understated. Given that many larger cities with fairly well developed transit systems, such as Los Angeles, New York, Chicago and San Francisco, have high concentrations of poor and minority residents, the effect of this undercounting may be even more significant.⁵⁸

⁵⁷Similar result were obtained by Pucher, Evans, and Wenger (1998), p. 25, Ex. 8.

⁵⁸Zmud and Arce (1999).

African-Americans, Hispanics, and Asians have much higher rates of transit usage than non-Hispanic whites, and these differences are particularly pronounced for bus and subway use. African Americans take buses ten times as often as whites and Hispanics use buses over three times more. Whites and Asian Americans tend to use buses and subways more for work trips than either African Americans or Hispanics, but all minorities are more likely to use these modes for family/personal trips than whites.⁵⁹ Roughly 25 to 35 percent of all bus trips are work or work-related, but minorities make between 35 and 40 bus trips for family or personal business compared to 30 percent of bus trips by whites. Over half of subway trips by whites and Asians are for work versus 46 percent for African Americans and 39 percent for Hispanics.

Commuter rail use was also higher among minorities, though fewer minorities than whites overall use this mode. Minorities used commuter trains about twice as often as whites, while subway use was intermediate between buses and rail.⁶⁰ Whites, however, are much likelier to use commuter trains for work and work-related trips than minorities, particularly blacks and Hispanics. Three-quarters of all white train trips are for work compared to just 45 percent for blacks and Hispanics. However, African Americans and Hispanics use trains over 45 percent of the time for family, social, or recreational travel,

⁵⁹Calculated by author from 1995 NPTS.

⁶⁰Similar results were obtained by Pucher (1998), p. 25, Exhibit 8.

compared to only 22 percent for whites.⁶¹

Table A-22. Transit Mode Split by Household Race/Ethnicity, 1995 (Millions)

	NH White	African American	Asian	Hispanic	All
Bus	1,305	2,154	127	575	4,316
	0.6%	6.2%	1.8%	2.2%	1.5%
	30.2%	49.4%	2.9%	13.3%	100%
	(60.0%)	(76.6%)	(58.8%)	(63.9%)	(67.7%)
Subway	544	501	62	232	1,427
	0.3%	1.4%	0.9%	0.9%	0.5%
	38.1%	35.1%	4.3%	16.3%	100%
	(25.0%)	(17.8%)	(28.7%)	(25.8%)	(22.4%)
Commuter Train	327	158	27	93	629
	0.2%	0.5%	0.4%	0.4%	0.2%
	52.0%	25.1%	4.3%	14.8%	100%
	(15.0%)	(5.6%)	(12.5%)	(12.5%)	(9.9%)
All Transit	2,176	2,813	216	900	6,373
	1.1%	8.1%	3.1%	3.4%	2.2%
	34.1%	44.1%	3.4%	14.1%	100%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

Source: 1995 NPTS. Row totals reflect include trip values where race/ethnicity was not ascertained and include those classified as other race/ethnicity.

Minorities also account for a larger proportion of urban transit trips than those in suburbs or outside major cities. Minorities constitute nearly three-quarters of urban transit users, but less than half of suburban riders. There are also significant differences

⁶¹Calculated by author from 1995 NPTS data.

in ridership by transit mode. As shown in Table A-23, African Americans make up nearly 60 percent of urban bus riders and about 40 percent of subway and train riders. Hispanics represent 15 percent of bus patrons, 20 percent of subway riders, and just over one-quarter of train users.

African Americans urbanites are far more likely to use bus transit than either whites or other minorities. Bus and light rail travel makes up 73 percent of transit trips by African Americans, about 55 percent of trips by Hispanics and 47 percent by Asian Americans. On the other hand, Asians take over 40 percent of their transit trips using subways, while blacks take only about 20 percent of theirs by this mode.

Table A-23. Urban Transit Trips by Household Race/Ethnicity, 1995 (Millions)

Mode	NH White	Minority	African American	Asian	Hispanic	All
Bus	606	2,111	1,575	67	387	2,764
	2.5%	8.1%	11.6%	2.9%	4.5%	5.3%
	21.9%	76.4%	57.0%	2.4%	14.0%	100%
	(55.6%)	(67.4%)	(73.0%)	(46.5%)	(55.8%)	(64.1%)
Subway	397	765	445	60	220	1,199
	1.6%	2.9%	3.3%	2.6%	2.5%	2.3%
	33.1%	63.8%	37.1%	5.0%	18.3%	100%
	(36.4%)	(24.4%)	(20.6%)	(41.7%)	(31.7%)	(27.8%)
Train	85	257	137	17	86	347
	0.3%	1.0%	1.0%	0.7%	1.0%	0.7%
	24.5%	74.1%	39.5%	4.9%	24.8%	100%
	(7.8%)	(8.2%)	(6.3%)	(11.8%)	(12.4%)	(8.1%)
All Transit	1,090	3,134	2,158	144	693	4,309
	4.4%	12.0%	15.9%	6.3%	8.0%	8.3%
	21.9%	72.7%	50.0%	3.3%	16.1%	100%
	(100%)	(100%)	(100%)	(100%)	(100%)	(100%)

Source: 1995 NPTS. Note: All trips within MSAs of 75 miles or less for which a mode choice was specified. Row totals include those persons classified as non-Hispanic Other and where race or ethnicity could not be ascertained.

In contrast, as shown in Table A-24, less than one-third of all transit users in the suburbs are African American, and less than ten percent of Hispanics. Over half of suburban bus riders are minority but whites account for 64 percent of subway riders and 89 percent of commuter train patrons. Here again, policies that shift investment toward suburban transit service, particularly subway and commuter rail, may benefit white riders as a group, relative to blacks, Asians and Hispanics. In suburban areas, whites are far more likely to take commuter rail trips than either African Americans or Hispanics.

Whites take over 30 percent of their trips by transit compared to less than 4 percent of trips by African Americans and 5 percent of trips by Hispanics.

Table A-24. Suburban Transit Trips by Household Race/Ethnicity, 1995 (Millions)

Mode	NH White	Minority	African American	Asian	Hispanic	All
Bus	312	357	259	10	73	671
	0.4%	1.8%	3.2%	0.3%	1.0%	0.7%
	46.5%	53.2%	38.6%	1.5%	10.9%	100%
	(53.0%)	(81.9%)	(82.4%)	(47.6%)	(88.0%)	(65.4%)
Subway	96	55	44	2	6	151
	0.1%	0.3%	0.5%	0.1%	0.1%	0.2%
	63.6%	36.4%	29.1%	1.3%	4.0%	100%
	(16.3%)	(12.6%)	(14.0%)	(9.5%)	(7.2%)	(14.7%)
Train	181	24	11	9	4	204
	0.3%	0.1%	0.1%	0.3%	0.1%	0.2%
	88.7%	11.8%	5.4%	4.4%	2.0%	100%
	(30.7%)	(5.5%)	(3.5%)	(42.9%)	(4.8%)	(19.9%)
All Transit	589	436	314	21	83	1,026
	0.8%	2.2%	3.9%	0.7%	1.2%	1.1%
	57.4%	42.5%	30.6%	2.0%	8.1%	100%
	(100%)	(100%)	(100%)	(100%)	(100%)	(100%)

Source: 1995 NPTS. Note: All trips within MSAs of 75 miles or less for which a mode choice was specified. Row totals include those persons classified as non-Hispanic Other and where race or ethnicity could not be ascertained.

Whites and minorities also different in when they are more likely to use transit during the day, a factor related at least in part to their differing trips purposes as discussed above. African Americans make up a higher proportion of public transit riders on all

modes, especially on commuter rail and subways, during off-peak hours, while whites, and Asians make up a higher percentage of peak period travel (see Table A-25).

Table A-25. Annual Transit Trips by Mode and Time of Day of Travel by Race/Ethnicity, 1995

	White	African American	Asian	Hispanic	All
Public Transit					
Peak	40.8%	36.3%	3.9%	15.7%	100%
Off-peak	30.8%	50.2%	3.2%	13.5%	100%
Bus					
Peak	33.3%	43.9%	3.2%	16.6%	100%
Off-peak	29.3%	54.0%	2.9%	11.9%	100%
Subway					
Peak	44.5%	30.2%	4.7%	16.6%	100%
Off-peak	34.7%	40.5%	4.5%	16.8%	100%
Train					
Peak	66.1%	15.7%	5.7%	9.4%	100%
Off-peak	35.2%	38.6%	2.6%	21.3%	100%

Source: 1995 NPTS. Note: All trips 75 miles or less within MSAs. Row totals include only cases where race/ethnicity was ascertained and include those classified as other race/ethnicity.

Ridership by Race/Ethnicity and Income

Non-Hispanic whites make up 71 percent of the nationwide metropolitan population. African Americans comprise nearly 14 percent, Hispanics 10 percent, and Asians 3 percent. About 11 percent of the population live in households earning under

\$15,000 per year, while another 20 percent make between \$15,000 and \$30,000 per annum. The low income population is disproportionately minority. Half of all those from very low income households are minority, and about half of those are African American versus 19 percent in the general population.

Looking at the income profiles of white and minority transit riders, Hispanic transit riders have higher income profiles than African American transit riders, though less than non-minority riders. Among African American transit users, 47 percent fell into the lowest income category compared to 32 percent of Hispanic transit riders and 25 percent of transit users in the general population.

Minority riders in smaller metropolitan areas also tended to be poorer than those in larger ones. While 35 percent of African American transit riders in SMSAs over one million in population fell in the lowest household income category, 82 percent of African American transit riders in SMSAs with a population below 500,000 did. This difference in income by area size among black transit riders far exceeded that between African Americans generally.

Given the disproportionate number of people of color among low income persons, and, as discussed above, the disproportionate number of poor and minority persons who are transit dependent, it is not surprising that transit use is both heavily concentrated

among both poor and minority groups. While income certainly plays a role in the disproportionate numbers of minorities who use transit, it is important to note that, even controlling for income, African Americans still make use of transit more any other socioeconomic group as shown in Table A-26.⁶²

Table A-26. Transit Use by Household Race/Ethnicity and Income, 1995 (Millions)

	NH White	African American	Asian	Hispanic	All
Less than \$15,000	364	943	49	293	1,705
	21.3%	55.3%	22.6%	17.2%	100%
	16.7%	33.5%	2.9%	32.6%	26.7%
\$15,000 to \$29,999	337	696	29	262	1,398
	24.1%	49.8%	2.1%	18.7%	100%
	15.5%	24.7%	13.4%	29.1%	21.9%
\$30,000 to \$49,000	421	429	79	108	1,081
	38.9%	39.7%	7.3%	10.0%	100%
	19.3%	15.2%	36.4%	12.0%	17.0%
\$50,000 to \$79,000	421	175	8	52	674
	62.5%	26.0%	1.2%	7.7%	10.6%
	19.3%	6.2%	3.7%	5.8%	100%
\$80,000 and over	268	34	15	37	368
	72.8%	9.2%	4.1%	10.1%	100%
	12.3%	1.2%	6.9%	4.1%	5.8%
Total	2,179	2,815	217	899	6,375
	34.2%	44.2%	3.4%	14.1%	100%
	100%	100%	100%	100%	100%

Source: 1995 NPTS. Note: All trips within MSAs of 75 miles or less. Row totals include those persons classified as non-Hispanic Other and where race or ethnicity could not be ascertained. Column totals include persons for whom income could not be ascertained.

⁶²Pucher, Hendrikson, and McNeil (1981), Tables VI and VII (from 1977 NPTS data).

The following table shows the distribution of transit trips by both race/ethnicity and income separately for buses, subway, and commuter rail. Data are grouped by annual household income into Very Low (less than \$15,000), Low (\$15-30,000) , Middle (\$30-50,000) and High (over \$50,000). While whites still account for a higher percentage of commuter rail and subway riders than bus riders, these differences have been declining due to reduced income differences between riders by transit mode.⁶³

Bus and streetcar use decline with income for minorities, but is relatively constant across all income groups for non-Hispanic whites. In all but the highest income category, minority riders make up a majority of riders. For subway trips, ridership increases with income for white riders, while more minority riders are low-income. Overall, minority riders predominate except among the highest income category. The picture is quite different for commuter train use. Ridership increases modestly by income among minorities, but falls off at higher incomes. In contrast, while lower income riders are predominately minority, the vast majority of white riders are in the highest income group.

⁶³Pucher, Evans and Wenger (1998), p. 26.

Table A-27. Transit Mode Splits by Race/Ethnicity and Income, 1995 (Millions)

	VERY LOW INCOME		LOW INCOME		MIDDLE INCOME		HIGH INCOME	
	White	Minority	White	Minority	White	Minority	White	Minority
Bus	305 2.3% (84.0%)	1,089 9.8% (82.1%)	234 0.6% (69.6%)	695 3.7% ()	261 (62.0%)	430 (65.8%)	267 0.4% (39.6%)	174 1.1% (52.1%)
Sub-way	39 0.3% (10.7%)	181 1.6% (13.6%)	91 0.2% (27.1%)	256 1.4% ()	112 (26.6%)	444 (22.1%)	222 0.3% (32.2%)	144 0.9% (43.1%)
Train	19 0.1% (5.2%)	57 0.5% (4.3%)	11 0.0% (3.3%)	63 0.3% ()	47 (11.2%)	70 (10.7%)	194 0.2% (28.2%)	21 0.1% (6.3%)
All	363 2.7% (100%)	1,327 11.9% (100%)	336 0.9% (100%)	1,014 5.4% (100%)	421 (100%)	653 (100%)	689 0.9% (100%)	334 2.2% (100%)

Source: 1995 NPTS. Note: All trips 75 miles or less within MSAs with populations of 250,000 or more.

In summary, there are significant differences in transit use nationwide between the sexes, and different age, racial, ethnic, and income groups, by mode, trip purpose, and time of travel. There are also differences *within* groups as, for instance, income effects may be more or less significant for men as a group, than for women, or for minorities versus non-minorities. The effects are also *cummulative*, so that transit use, particularly bus use for off-peak, non-work trips, is highest among inner city poor, women of color whereas middle income, suburban white males are most likely to use transit, primarily rail, for rush hour commuting. Again, these data are based on a nationwide survey, which

is significantly influenced by a few large urban areas, so the patterns are quite likely to be different in individual cities. Ridership data collected on the Los Angeles Metropolitan Transit Authority bus, light rail, and commuter rail lines (see Chapter Nine) are generally similar to the national patterns. In any event, they are nevertheless indicative of the wide differences in transit use by and among different groups of riders.

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