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## Rights in Transit: Public Transportation and the "Right to the City" in California's East Bay

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## **Abstract**

In recent years, a number of researchers in geography and in urban studies have taken to the idea of the “right to the city.” These scholars have drawn on the idea to frame debates on topics as wide ranging as urban social movements, the regulation of urban public space, to the relationship between cities and citizenship. Implicit in this literature is a conception of the city and of urban space in which political conflict and class struggle are dominating features. This dissertation seeks to add to that discussion by focusing on debates over transit policy in California’s East Bay. In addition to contributing to scholarship on the right to the city, this dissertation also broadly encroaches upon work in transportation geography. Drawing on three months of fieldwork, this dissertation makes two arguments. First, it argues that debates over rights ought to matter for those interested in the geography of urban transportation, and second, it argues for seeing urban mass transit as central to securing a right to the city. Drawing on semi-structured interviews with transit activists and a focus group with transit dependent riders, I highlight the degree to which the democratic rights of many East Bay residents hinge upon transit access. For many of these residents, a right to the city means a right to transit. Across six chapters of the dissertation, I also focus more broadly on the relationship between transit policy and conflicts over rights -- whether these conflicts take the form of labor disputes or civil rights lawsuits. These conflicts, I argue, have shaped the geography of transit in the region. While the dissertation highlights the importance of rights and the right to the city for understanding both the geography of urban transit, as well as transit’s role in the public life of cities, it also highlights some of the challenges and contradictions associated with the idea of the right to the city. Toward the end of the dissertation I address these challenges and contradictions head-on by arguing for understanding the right to the city as a right against the “idiocy of urban life.”

RIGHTS IN TRANSIT: PUBLIC TRANSPORTATION AND THE  
“RIGHT TO THE CITY” IN CALIFORNIA’S EAST BAY

by

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Dissertation

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Doctor of Philosophy in Geography

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## **List of Acronyms**

AAA- American Automobile Association

ACCE- Alliance of Californian's for Community Empowerment

AC Transit – Alameda and Contra Costa Transit District

ADA- Americans with Disabilities Act

ADAPT- Americans with Disabilities for Accessible Public Transportation

AFDC- Aid to Families with Dependent Children

APTA- American Public Transportation Association

ASRA- American Street Railway Association

ATU 192- Amalgamated Transit Union Local 192

BART- Bay Area Rapid Transit District

BATLUC- Bay Area Transportation and Land Use Coalition

BOSS- Building Opportunities for Self-Sufficiency

BRU- Bus Riders Union

BRT- Bus Rapid Transit

CBE- Communities for a Better Environment

CCCTA- Central Contra Costa Transit Authority

CMAQ- Congestion Mitigation and Air Quality program

CPTED- Crime Prevention through Environmental Design

CIL- Center for Independent Living

EBCB- East Bay Center for the Blind

FHWA- Federal Highway Administration

ISTEA- Intermodal Surface Transportation and Efficiency Act

JARC- Job Access and Reverse Commute Grant

LAW- League of American Wheelmen

MAP- Moving Ahead for Progress in the 21<sup>st</sup> century

MIS- Major Investment Study

MPO- Metropolitan Planning Organization

MTA- Metropolitan Transportation Authority

MTC- Metropolitan Transportation Commission

MUNI- San Francisco Municipal Transit Agency

OAC- Oakland Airport Connector

OSHA- Occupational Safety and Health Act

RTP- Regional Transportation Plan

SAFETEA-LU – Safe Affordable Flexible Transportation Equity Act: A Legacy for Users

SamTrans- San Mateo County Transit

SCRTD- Southern California Rapid Transit District

STA- State Transit Assistance

STIP- State Transportation Improvement Program

STP- Surface Transportation Program

TALC- Transportation and Land Use Coalition

TCP- Transit Capital Priorities

TCRP- Transit Cooperative Research Program

TDA- Transportation Development Act

TEA 21- Transportation Equity Act for the 21<sup>st</sup> century

TEA- Transportation Enhancement Activities

TJWG- Transportation Justice Working Group

TOD- Transit Oriented Development

UMTA- Urban Mass Transit Act

USOAC- United Seniors of Oakland and Alameda County

## **Figures**

Figure 1: Real Wages for East Bay Bus Operators: 1944-2009

Figure 2: Real Fares at AC Transit: 1960-2010

Figure 3: Public Subsidies and Race of Riders

Image 1: Time edge for public transit

Image 2: Bus Riding 101: A guide for discerning passengers.

Image 3: “Bus Buzz”

Image 4: Steve Geller’s Guerrilla Signposting Campaign

Image 5: Ross’ Test Vehicle

Map 1: Map of the East Bay and AC Transit Lines

Map 2: The B Line: Berkeley’s Municipal Transit System

Map 3: Priority areas for Transit Oriented Development: BART stations and AC Transit’s major corridors

## Introduction

A week after arriving in Oakland, California, I attended a public meeting convened by the Alameda Contra Costa Transit District (AC Transit) and its board of directors. It was the fall of 2010 and for the third time in one year, the seven member board was primed to approve yet another round of cuts to transit service. The proposal in front of the board was dire: to cut 34 of 51 weekend bus lines and to reduce evening service by two-thirds. Coming on the heels of cuts in both March and October, if approved, the proposal in front of the board would not only compound the miseries that East Bay bus riders were already suffering -- longer waits, missed appointments and overcrowded buses -- but it would trim East Bay bus service to levels not seen in 20 years (see Appendix C: Graph 1).<sup>1</sup>

The AC Transit boardroom in downtown Oakland was packed. Toward the rear, security guards stood cheek by jowl with women in wheelchairs, late arrivals, and smartly dressed reporters from the local news stations. Transit operators were there as well -- many still wearing their grey work uniforms emblazoned with the AC Transit insignia. In the week prior, 50 to 75 bus operators had already received notice that they were to be laid off by the month's end; many of these workers were in the audience. The context of the public meeting, of course, was a stark one. AC Transit was broke. Reductions in state transit aid and losses in local sales tax revenue had left the agency with a deficit of \$56 million for the fiscal year. Efforts on the part of management to impose cost saving work rule changes in the summer had only worsened the agency's already strained

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<sup>1</sup> Service reductions in June and October had reduced total service at AC Transit by roughly 15% (Cabantuan 2010a). According to a report by Urban Habitat, an East Bay social justice non-profit, the proposed cuts would mean 26,016 riders would lose weekend service. In addition 2,475 paratransit clients would find themselves outside of the ¾-mile buffer of the remaining routes and would thus not qualify for AC Transit pick up service (Urban Habitat 2010).

relationship with its drivers' union -- the Amalgamated Transit Union Local 192 (ATU 192). Understandably, AC Transit operators had been unwilling to give up hard fought benefits on overtime compensation, healthcare co-pays, and pension contributions (Cabantuan 2010b). The irony of the situation was hard to miss. In a year marking the agency's 50<sup>th</sup> anniversary, AC Transit was hemorrhaging cash, cutting service, and facing the opprobrium of both a frustrated ridership and an unhappy workforce. It was to be a profoundly bitter anniversary.

Following a brief presentation on the proposed service cuts and on a related cost saving plan involving subcontracting out paratransit services, the Board of Directors opened the floor to public comment. What followed was a public comment period defined by anger, frustration, and rebuke -- noteworthy, not merely for the sheer volume of voices, but the range of demands, the breadth of perceived slights, and the diversity of disagreement on who bore the blame for the crisis. Speakers ranged from East Bay transit riders, local activists, members of ATU 192, advocates for the disabled, transit buffs, representatives from various social service agencies, and, of course, people like myself -- silent but curious witnesses to what appeared to be an impending catastrophe.<sup>2</sup>

Taking the microphone, Michelle Russi, who sat in a wheelchair toward the back of the room, proceeded to denounce the proposed cuts for destroying the community's lifeline. Russi worried aloud about what the cuts would mean for her ability to see friends, attend meetings, and even her ability to receive home healthcare. As she informed the board, her home health care nurse was a bus rider as well. Ralph Walker, a youth track coach who had recently suffered a stroke, and for whom walking more than one mile was impossible, worried that the cuts would prevent

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<sup>2</sup> But in October 2010, the ATU 192 and AC Transit management reached an agreement and the service cuts were postponed indefinitely.

him from getting to the West Oakland Health Center for therapy. For him, AC Transit's "line 69" was too important to cut. Without weekend bus service, riders like Peralta College student Celia Faye Russell, wondered how she was going manage school work, raise two kids, and keep a job. Riders like Nick Perry noted that the unemployment rate in Alameda County was already 12%; cuts to transit service, he argued, would only further imperil the local economy. AC Transit bus operator, Heather Denim, noted that cutting line 60, her assigned route, would deny thousands of students access to the Hayward Hills campus of Cal State, East Bay. Reading a prepared statement, longtime bus rider Karen Smulevitz drew an extended round of applause. Smulevitz not only pointed to the broader dangers of the board's actions, but she appealed to the idea of transit as a civil right. Of all the civil rights that exist, Smulevitz argued, "whether it is food security, housing, healthcare or education, the right of transportation is the most integral to each [...]" and must be preserved. If the cuts were not avoided, Smulevitz warned ominously, "we must be prepared to share the roads with quasi-legal jitney and car services [that will emerge] to fulfill the needs of a desperate people."<sup>3</sup> Urban transportation, she argued, was a right.

Riders were joined at the microphone by transit operators and union representatives. Claudia Hudson, President of ATU 192, rose to the microphone and blasted the elected board and management for holding the public hostage during ongoing labor negotiations. The board, she argued, should hold off on any cuts until a labor contract was agreed upon and signed.

Immediately after, a string of paratransit drivers stormed the microphone to argue that the agency's plans to outsource their jobs to private carriers not only stood in violation of their rights under previous labor agreements but would also threaten the quality of paratransit service and endanger the disabled.

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<sup>3</sup> For other riders like David Vartanian, the cuts to feeder lines signaled the death knell for AC Transit. "That's the basic story of Diabetes," Vartanian concluded; "you can't cut the capillaries and expect the body to survive."

Organizations like Urban Habitat, Saint Mary's Center, Genesis, and the Alliance of Californians for Community Empowerment (ACCE) all sent representatives to protest the cuts. If agencies like the Bay Area Rapid Transit District (BART) were able to find \$70 million for a new rail expansion to the Oakland Airport, Urban Habitat's Lindsay Imai argued, what was preventing the AC Transit board from getting the same support. Betty Ingrahm from Genesis denounced the cuts and pointed to their impact on children and students. Jason Josajima and Kathy Vacular from ACCE announced the creation of a "bus riders union" to fight any further cuts and to defend the rights of East Bay bus riders.

Longtime activist Joyce Roy blamed the cuts on AC Transit's financial mismanagement. Roy highlighted the board's decision several years prior to purchase an expensive bus fleet from the Belgian VanHool bus company. "VanFools" she called them. Others still attacked the board's support of the costly Bus Rapid Transit initiative, an initiative still languishing in planning review boards. Even although such projects had been lauded as ways to attract new transit riders, many argued that preventing the looming cuts to weekend service was far more important. For others, AC Transit's problems were less local mismanagement than they were structural. Many argued that the regional formula for funding transit prioritized suburban rail expansions at the expense of local bus agencies like AC Transit who served a poorer clientele. In fact, this perceived disparity was the basis of a then ongoing civil rights lawsuit (*Darensburg v. MTC* 2011).<sup>4</sup>

By all accounts, literature and scholarship in transportation geography exists in a reality far removed from that of a raucous AC Transit boardroom. In studies on the geography of urban

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<sup>4</sup> AC Transit provides audio recordings of all public hearings online. They can be accessed here: <http://www.actransit.org/about-us/board-of-directors/board-memos/>

transportation, the fierce and moving testimonies of drivers, activists, and transit-dependent riders -- all of whom have a direct stake in what that geography looks like -- are largely absent. In such studies, it is even rarer to find pronouncements like those of bus riders like Karen Smulevitz on the importance of seeing urban transit as a fundamental right worthy of protection. Instead, studies in urban transportation geography have historically focused on what Susan Hanson (2004, 472) has called “the friction of distance.” These studies have often aimed at “informing policy makers of the best way to solve” pressing problems like congestion and slow commuting times. While there have certainly been exceptions (Hanson and Giuiliano 2004; Hanson and Kwan 2008), much of transportation geography has dedicated itself to one task: offering “technical solutions” to what are seen as wholly “technical problems” (Hanson 2004, 473). But what of the challenge posed by riders like Smulevitz? What about the idea of a “right to transit,” or the idea of “rights” at all?” On the question of rights, what might transportation geography say? Of course, in places like the East Bay the language of rights is unavoidable. Apart from riders like Karen Smulevitz, rights-talk features in contract negotiations between AC Transit management and the ATU 192; it shows up in civil rights lawsuits launched by minority and disabled bus riders. Moreover, it features in the increasing popular demand for “transportation justice.”<sup>5</sup>

Rights, of course, are important. In a democracy, rights are defined as crucial safeguards of citizenship and human dignity. Rights function as trumps against laws that are deemed unfair, even when those laws are popular or politically expedient (Dworkin 1977). Rights are claims to what is just and correct, and they confer duties on others that are morally and legally binding. In the face of looming service cuts, that bus riders like Karen Smulevitz should argue for a “right to

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<sup>5</sup> It also appears in campaigns such as those of groups like the Alliance for AC Transit who in 2000 worked to establish and publicize a “Bus Riders Bill of Rights.”

transit,” should thus come as no surprise. What should surprise us, however, is that much of what accounts for the geography of urban transportation can offer little in the way of understanding what such a right might entail or even mean. Not only can the literature tell us little about what a “right to transit” might involve, but it can tell us even less about how that right might square with the collective bargaining rights of transit workers, the rights of taxpayers, or the corollary duties such rights impose on transit agencies. Unlike debates over how to measure the depth of a curb cut, or how to measure the elasticity of demand following a fare hike, debates over rights cannot be reduced to technical problems with technical solutions. To talk about rights means broaching broader questions of democracy and urban citizenship, and it means wrestling with problems that are not technical but political. For transportation geographers and urban geographers, to debate rights is not only to suggest that one take seriously the testimonies of people like Karen Smulevitz, Claudia Hudson, or Celia Faye Russell, but also to argue that such testimonies are central to both understanding and studying the geography of urban transportation.

Ultimately this dissertation is aimed at two groups: urban geographers and transportation geographers. For transportation geographers -- whose work has been primarily directed at planners and civil engineers -- this dissertation will emphasize the ways in which public transportation has become an important arena in which the rights and moral claims of varying groups come into conflict. In fact, this dissertation will show that public transportation’s geography and planning often bear the explicit marks of such conflicts and struggles. For urban geographers, this dissertation seeks to contribute to the growing literature on the idea of the right to the city. Coined by Henri Lefebvre (1996[1968]) in the 1960s, the idea of the right to the city has increasingly been used to frame debates on topics as wide ranging as gentrification (Newman and Wyly 2006), urban neoliberalism (Purcell 2002), urban social movements (Harvey 2002;

Uitermark et al. 2012), the regulation of public space, and the relationship between cities and citizenship (Dikec 2005). With its specific emphasis on the political struggles of the urban poor, many of those who have taken up the idea of the right to the city have done so with a clear aim: to argue against urban policies that exclude the homeless from public space (Mitchell 2003), that deny urban citizens a role in planning urban space, and that reduce cities to the private enclaves of the well heeled. Such policies, it is argued, all violate the rights of urban citizens to the city. *Rights in Transit* will argue simply that it makes little sense to talk about a right to the city -- or its denial -- without addressing urban public transportation.

In addressing scholarship in both urban and transportation geography, the central argument forwarded by this dissertation is a simple one: that debates over rights ought to matter for scholars interested in the geography of urban transportation; and that it is important to see urban mass transit policies as central to securing a “right to the city.” Over the course of six chapters this dissertation will look at struggles over the design and planning of public transportation in California’s East Bay. Each chapter will use these struggles to both highlight transit’s role in securing a right to the city and to reaffirm the centrality of rights-talk in shaping the urban geography of urban transportation in regions like the East Bay.

Chapter One will address two questions: why should transportation geographers care about rights? And what, if anything, can debates over the right to the city add to our understanding of the geography of urban transportation? This chapter will begin with two brief anecdotes that highlight precisely why rights and why the idea of a right to the city are indispensable to studies of urban transportation geography. From there, the chapter will offer a brief review of both literature in transportation geography and literature on the idea of the right to the city. This chapter will suggest that, in the context of debates over urban transportation, to talk about rights

and a right to the city means asking a particular set of questions. It means asking if there is, or if there should be, a moral minimum in how we provide urban transportation, and it means asking both what that minimum should be, and how that minimum should be negotiated.

Chapter Two will begin by observing that the relationship between cities and transportation has, for much of the 20<sup>th</sup> and 21<sup>st</sup> centuries, been framed as a problem in need of a solution. This chapter will outline the contours and evolution of the so called “urban transportation problem” and examine what that has looked like in the East Bay. This chapter will argue that one of the clearest ways to understand this evolution is through David Harvey’s discussion of utopias of form and process. The history and development of urban transportation in places like the East Bay has been a history of failed utopian aspirations -- aspirations that have often failed precisely because they ignore rights.

Questions of rights often find their most common expression in legal debates and disputes.

Through the examination of three court cases (*Darensburg v. MTC*; *Bonanno v. CCCTA*; *Lopez v. SCRTD*), Chapter Three will address one question: where do the legal duties of transit agencies end and where do the corresponding legal rights of transit riders begin? These three cases all serve to show that the rights of transit riders and the duties of transit agencies often have very specific and clear spatial limits. Departing sharply from methodologies typically used by transportation geographers, this chapter will focus on the role of law and legal debate in shaping the way transit looks and functions in the East Bay -- from dictating where AC Transit can site bus stops to how bus drivers deal with unruly passengers. This chapter will end by arguing that many of the representations of space and geography that undergird legal decisions are necessarily contingent and partial. This is evidenced in *Darensburg v. MTC*; *Bonanno v. CCCTA* and *Lopez v. SCRTD*. More important, however, is the fact that there is also room in legal debate

for alternative representations. In this context, the idea of the right to the city is important precisely because it can offer an alternative representation of space and the city that can better serve the interest of justice.

Drawing on interviews with AC Transit operators and archival material collected from the San Francisco State University Labor Archives, Chapter Four will look at the history of the ATU 192, giving particular attention to the evolution of their collective bargaining agreement. This chapter will address several questions: where do the rights of labor fit into a discussion of the right to the city? To what degree are the rights of labor in conflict with the rights of the transit dependent? And lastly why do the rights of labor matter for understanding the geography of urban transit? This chapter will argue that the labor struggles of groups like the ATU 192 are central to the fight for the right to the city, and play a key role in shaping the way transit services look in the East Bay.

Chapter Five will take up the idea of “transportation justice” and will focus on the emergence in the East Bay of a veritable transportation justice movement. While some attention is given to recent protests against the Oakland Airport Connector, the bulk of the chapter will trace the development and history of a now defunct organization called the Alliance for AC Transit.

Drawing on interviews conducted with members of the organization, as well as interviews with activists from other transportation justice groups in the East Bay, I ask what such groups mean by “justice.” In many ways, the demand for transportation justice has been as much a radical demand for a right to the city, as it has been a classic demand for social justice. This chapter ends by suggesting that a key component of the “right to the city” idea is a rejection of what Marx and Engels might have called “the idiocy of urban life.”

Starting with a brief description of a fictitious transit system called “the B-Line,” Chapter Six will focus primarily on the East Bay’s search for urban transportation alternatives. This chapter will look at three of the most promising pro transit initiatives in the region: Transit Oriented Development (TOD), Bus Rapid Transit (BRT) and Complete Streets. Here I argue that these initiatives have a largely ambivalent relationship to the idea of a right to the city and, if anything, function to highlight the limits of the rights concept itself. Not only are projects like TOD, BRT, and Complete Streets rife with contradictions, but they also often face quite valid democratic and popular opposition. While such projects might enable a right to the city by promoting efficient and affordable transit, the changes required to realize such projects are often opposed by communities for whom a right to the city means something entirely different.

This dissertation will conclude by restating why debates over rights ought to matter for those interested in the geography of urban transportation. Despite highlighting the limits of the right to the city concept in Chapter Six, the dissertation will end by both defending the idea of incorporating rights into transportation geography, as well as the importance of seeing urban mass transit policy as central to securing a right to the city. In an attempt to hedge against the inevitable moment when geographers and other social scientists tire of the “right to the city” idea and move onto the next trendy idea, this dissertation will end by sketching out a broader research program that I believe can serve the interest of both a more robust transportation geography and a more robust debate within the right to the city literature on what that right looks like in practice.

Before setting off, however, a quick word should be included about the question of relevance and where this dissertation fits within broader writings on cities. In 2010, the American Public Transportation Association (APTA) published a report entitled, *Impacts of the Recession on*

*Public Transportation Agencies*. The report noted that in 2010, 84% of all transit agencies in the country had been forced to either cut service, raise fares, or consider other cost saving measures (2010, 2). As noted earlier, for agencies like AC Transit, this meant facing down crowds of angry bus riders and bus operators. In the context of this crisis, and for organizations like APTA or scholars in transportation geography, many of the very questions that this dissertation is interested in -- broader questions of democracy citizenship and rights -- might seem immeasurably distant from the practical needs of making transit work. Against such practical demands, what place is there for lofty talk of rights or democracy or citizenship? Of course, there is a counter argument. And that argument would be that in ignoring the broader issues at stake one only gets an impoverished view of what transportation actually means for people in cities. Such an argument would be hardly new. In fact, at the turn of the 20<sup>th</sup> century writers and scholars like Delos Franklin Wilcox (1904), Nathaniel S. Shaler (1896) and Charles Cooley (1895) approached issues of urban transportation in precisely these terms. For these writers urban transportation problems were also necessarily problems of democracy, rights, and citizenship. For writers like Wilcox, in fact, urban transportation was the best hope for rescuing a democratic project in crisis. While for many such lofty talk of democracy and rights might seem strange in the context of service cuts at agencies like AC Transit, this would certainly not be the case for many others for whom there is no better way to talk about what transportation actually means.

Published in 1904, Delos Franklin Wilcox's *The American City: A Problem in Democracy* emerged amidst growing public anxiety over the prospects of American democracy in cities. By

1904, the development of industrial capital in the U.S. had produced cities<sup>6</sup> teeming with new immigrants living and working under conditions that were both congested and precarious. For Wilcox, democracy in this context had a particular meaning. It not only rested upon a respect of certain individual rights, like the right to free speech or the right to vote, but also on the precise conditions necessary for such rights to have any practical meaning -- conditions that, with urbanization, were changing at an ever quickening rate. In the face of growing anxiety surrounding the moral condition of cities, Wilcox asked: to what degree do the conditions of urban life matter for the health of a democratic society? While it is perhaps best to ignore Wilcox's consternation that it was the immigrant's lack of innate intelligence that was the root cause of America's urban problems, his remark on how cities might be made more amenable to rights of democratic citizens bears repeating. Democracy as a means of liberty and a method of law, Wilcox argued, finds its expression in the street (1904, 29). The street, he added, is the symbol of the free city, a channel for traffic and transportation and for the use of all alike.

Wilcox's focus on the role of the street and urban transportation in promoting democracy was far from unique. Writing in 1896, Nathaniel S. Shaler argued that it was precisely the city street as a medium of transportation that made it possible for citizens to come together and make decisions about the common good and to exercise their wholly democratic right to associate with other citizens. The importance of the street to American democracy, Shaler argued, "rests on a deeper foundation than mere commerce or commercial needs"; rather it rests on the belief that the "political life of our commonwealth, is determined by the readiness and ability for people to obtain association with one another" (1896, 27). Like Shaler and Wilcox, scholars like Adna Weber (1899) and Charles Cooley (1893) joined with an ever growing movement of scholars

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<sup>6</sup>In 1790 only 3% of Americans resided in cities, by 1890 almost 30% of Americans could be said to live in cities (Weber 1899, 23).

who argued for the importance of streets and urban transportation in improving the conditions of urban life. By dispersing populations to Garden Cities and suburban developments, innovations in urban transportation, they argued, promised both to solve urban problems of vice and congestion and to secure in cities conditions more amenable to democracy and democratic citizenship.<sup>7</sup>

Perhaps contrary to such sanguine promises, the reality of city streets and urban transportation at the turn of the 20<sup>th</sup> century was one of conflict and competing interest. The quaint village road of a few travelers and a single line of horse carts had, by the turn of the century, become the thronged thoroughfares of the large and busy metropolis (Booth 1911, 29). While the street had not been widened, its daily use “had increased a hundred fold.” Bicycles and private automobiles -- which were fast moving from mere novelties to popular obsessions -- necessarily jostled for space with streetcars, pedestrians, and horses. New questions emerged as to the best ways to regulate traffic and the fairest way to delineate the rights and duties of individual urban travelers. What, legal scholars like Henry Booth (1911) asked, were the rights of automobiles to the public street? To what degree were the rights of the streetcar to its tracks exclusive and might pedestrians be prohibited from crossing them? How might the rights of horsemen be reconciled with those of the automobilist or the wheelman? Where did the duties of pedestrians begin and

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<sup>7</sup> Toward the end of his 1899 book *The Growth of Cities in the 19<sup>th</sup> Century*, famed statistician Adna Weber argued for what he saw as transportation’s central role in resolving a central paradox of urbanization. To summarize his point Weber quoted the quite eloquent remarks of sociologist Dr. Charles Cooley:

Humanity demands that men should have sunlight, fresh air, the sight of grass and trees. It demands these things for the man himself, and it demands them still more urgently for his wife and children. No child has a fair chance in the world who is condemned to grow up in the dirt and confinement, the dreariness, ugliness and vice of the poorer quarters of the city [...]. Whatever struggles manhood must endure, childhood should have room and opportunity for health and moral and physical growth. Fair play and the welfare of the human race alike demand it. There is, then, a permanent conflict between the needs of industry and the needs of humanity. Industry says men must aggregate. Humanity says they must not [...] it is the office of the city railway to reconcile these conflicting requirements (Weber 1899, 474).

the liabilities of motive forces end? In ways that reflected both the challenges of new technology and urban congestion, the turn of the 20<sup>th</sup> century was marked by a proliferation of court cases dealing with the relative rights of bicyclists, pedestrians, horses, streetcars, and automobiles to the public streets of the city.<sup>8</sup> New organizations like the American Automobile Association (AAA)<sup>9</sup> or the League of American Wheelmen (LAW)<sup>10</sup> found themselves pitted against

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<sup>8</sup> By 1907 a slew of court cases had made it clear that no class of privately owned vehicles had priority in the streets (Barrett 1983, 49). The public street was to be open to all suitable methods of travel irrespective of their novelty. In his 1916 treatise *The Law of Automobiles*, Xenophon Huddy returns to the 1876 remarks of Judge Cooley, remarks that would largely foreshadow the court's later approach to new modes of transportation.

Persons making use of horses as the means of travel have no rights therein superior to those who make use of the ways in other modes [...]. Improved methods of locomotion are perfectly admissible, if any shall be discovered, and they cannot be excluded from the existing public roads [...]. The highway is not restricted in its dedication to some particular mode of use, it is open to all suitable methods, and it cannot be assumed that these will be the same from age to age (Huddy 1916, 52).

Through the end of the 20<sup>th</sup> century, traditions and legal decisions about the street “made it very difficult to restrict street use in any way, and made it almost impossible to restrict access to a given street by private automobile” (Barrett 1983, 47). Cases dealing with the use of bicycles on city streets (*Swift v. City of Topeka* 1890) or cases dealing with the responsibility of automobiles to refrain from scaring horses (*Collard v. Beach* 1901) all resulted in solidifying the case for keeping streets free for all suitable uses. Judge Charles McLean, voicing the majority opinion in *Collard v. Beach*, wrote: “The common motive power on the highway is a horse, but the horse has no paramount exclusive right to the road and the mere fact that a horse takes fright at some vehicle run by some new and improved methods, and [then] smashes things, does not give the injured party a cause of action” (Important Judicial Decisions 1903, 742).

<sup>9</sup> In 1903 and in the third volume of *The Horseless Age*, the American Automobile Association (AAA) published a circular promoting their organization's efforts to protect the rights of automobilists. As is clear in the circular, the goal of the AAA was to assert the equal rights of automobiles to the public highway. The circular read:

The automobilist today is occupying the precarious position of the pioneer. The introduction of the self propelled vehicle on our highways is an innovation strongly resented by many of the present users of the highway. The proper use of the highway by the automobilist is exactly as legitimate as that of any other methods of travel. It has the same rights on the highway as the horse driven vehicle, no more [...]. Too often we find that small minded magistrate [...] that delight at the opportunity to impose excessive punishment on automobilists of the country, regardless of their innocence or guilt. For self protection, therefore the automobilist should have some organization representative of the entire body that could look after, protect and defend the interests of automobilists wherever menaced. In union there is strength and the strength of one should be the strength of all (American Automobile 1903, 114).

<sup>10</sup> The League of American Wheelmen (LAW) was formed on May 30, 1880 in Newport, Rhode Island to defend bicyclists from the “restrictions and imposition by which they were harassed on all sides” (League of American 1883). As the editors at *Harper's Weekly* noted, “in the public press [cycling] has always found some stanch of supporters, but a greater number of bitter enemies, who have denounced it as a diabolical invention calculated to do a vast deal of harm, and no good, and have organized public opinion against it.” In some places, the editors noted, “the bicycle was allowed the free use of the public highway, while in others its appearance was forbidden by law” (League of American 1883). Not unlike the AAA, the LAW saw itself as an organization engaged in a battle over the rights of its members to the public street. Its primary aim: to counter both laws and public opinion that might threaten that right.

pedestrian groups, business interests, and streetcar lobbies in an all out battle over the limited space of the street. Such battles were, as Paul Barrett (1983) has noted, not only between teamsters and trolley men, or “between lobbies in the council chambers,” but were battles “accompanied outside by a deadly competition for public space” and manifested, in traffic accidents, collisions, and injury.

At the turn of the 20<sup>th</sup> century the transportation infrastructure of cities was both a site of promise and a site of necessary conflict. For scholars like Wilcox, Weber, Shaler, or Cooley, improved streets and roads offered a partial solution to the problems of vice and congestion that were plaguing parts of American cities and supposedly threatening American democracy. On the other hand, the reality of urban transportation and city streets at the turn of the century was quite different. It was a reality marked by competing rights, trenchant conflict, and debates litigated in both courtrooms and the streets themselves.<sup>11</sup> Conflicts erupted between private automobiles, bicyclists, horse-drawn carriages, business owners, streetcars, and pedestrians over the respective rights of each to the public space of the city street. At the turn of the 20<sup>th</sup> century, and in cities burgeoning with new immigrants, we find the promise of urban transportation and the street at odds with the reality of political struggle, legal debate, and competing demands over limited space.

Since the publication of Wilcox’s *The American City: A Problem of Democracy* or Cooley’s *The Theory of Urban Transportation*, the transportation infrastructure of American cities has changed in enumerable ways. The streetcars, the trolleys, and the horses that dominated the urban landscape and that occupied the minds of urban reformers like Wilcox, Cooley, and Shaler have

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<sup>11</sup> To the degree that the street and the urban transportation infrastructure were a means to a more democratic society, they were also perhaps the best reflection of democracy’s inherent messiness and its proclivity toward conflict, debate, and colliding rights.

largely disappeared. The argument that suburban developments and Garden Cities -- if connected to urban centers by rail -- might solve problems of urban congestion, seems wholly counter to current and popular efforts to stem urban sprawl and encourage urban density. The role of the federal government in financing urban transportation has changed as well. At the turn of the century urban transportation was largely a private enterprise, even if a highly regulated one. Given that the focus of *Rights in Transit* will be on contemporary struggles over transportation policy in California's East Bay, it may seem strange then to refer back to the various treatises and musings of scholars who were writing over a century ago and in a vastly different context. What will become clear, however, is that the nature of debate and discussion over urban transportation has changed very little. Where we once found municipal rail franchises jostling with automobiles, horse drawn carriages, pedestrians, and other streetcar companies, we now find public transit agencies, bus riders unions, labor unions, advocates for the disabled, city legislators, and urban planners fighting both over limited federal and state funds as well as over what parts of the street ought to be widened, narrowed, or elevated.

In the context of more contemporary concerns over cities and urban problems, Wilcox's point about democracy also bears repeating. For Wilcox, democracy not only rested upon a respect for certain individual rights, but also on the precise conditions necessary for such rights to have any practical meaning. As Isaiah Berlin would note 50 years later, it is not enough to offer political rights, "or safeguards against state intervention, to men who are half-naked, illiterate, underfed and diseased" or, adding to that list, people confined to their homes due to a lack of transportation (1969, 124). For Wilcox and a great many urban reformers, the connections between the urban transportation infrastructure of cities and the ideals of democracy were clear. Whether better transportation permitted the suburban development of Garden Cities or merely

the ability for urban citizens to assert their democratic right to association, transportation promised, for them, a spatial fix to the problems of increasingly undemocratic cities.

With its focus on public transportation policy in California's East Bay, *Rights in Transit* begins here. It begins by acknowledging that urban transportation and the street have long been sites of conflict and competing rights. It begins by noting the importance of urban transportation in securing conditions in cities where democracy and the democratic rights of citizens can find real expression. It is not only that issues of democracy, citizenship, and rights have a place in transportation geography, it is that such issues are both central and unavoidable. Across six chapters, *Rights in Transit* will seek to insert much needed talk of rights into transportation geography and in so doing contribute to a growing literature on the right to the city. Just as one saw the work of Wilcox arise amidst anxiety over the supposed plight of democracy in industrializing cities teeming with new immigrants and rife with congestion, and just as someone like Frederick Law Olmstead's work arose amidst fears engendered by the draft riots of the 1860s, this dissertation arises out of a set of its own anxieties -- these are anxieties over the prospect of democracy and justice in regions like the East Bay -- regions increasingly defined by service cuts, privatization, and poor public transit. In focusing on transit policy in California's East Bay, the starting assumption of *Rights in Transit*, is that public transportation and the urban transportation infrastructure not only matter "for mere commerce" but, as Nathaniel Shaler (1896, 27) argued, for securing democracy in cities and the associative rights therein.

### **A Note on Methods**

*Rights in Transit* is the product of seventeen weeks of fieldwork in the East Bay. The bulk of that fieldwork was conducted between September 22, 2010 and December 15, 2010. In

late August 2011, I returned to the East Bay for several weeks of follow-up work. Over the course of the entire period, I conducted 21 semi-structured interviews, one focus group and numerous hours of archival work. In terms of interviews, my informants largely fell into three categories. Informants were generally individuals involved in 1) transit planning, 2) transit advocacy, or 3) the transit industry as bus operators. I selected and recruited the vast majority of my informants either based on referrals (from other interviewees) or after face-to-face encounters at local events. One of the earliest and most fruitful events that I attended was the AC Transit board meeting on September 22<sup>nd</sup> -- a quite volatile meeting dealing with a set of proposed cuts to transit service. In addition to making a number of initial contacts at this event, many of these contacts ultimately played a central role in referring me to other informants. Over the course of three months, I also became a regular attendant at meetings convened by the ACCE Bus Riders Union, Genesis, and the East Bay's Transportation Justice Working Group. These meetings all provided numerous opportunities to recruit informants.

On November 9, 2010, I conducted a focus group with members of the East Bay Center for the Blind. I arranged the focus group after a chance encounter with the center's director. This was one of the only instances in which I talked formally to individuals classified as transit dependent. The focus group included roughly fifteen participants and lasted a little over 45 minutes.

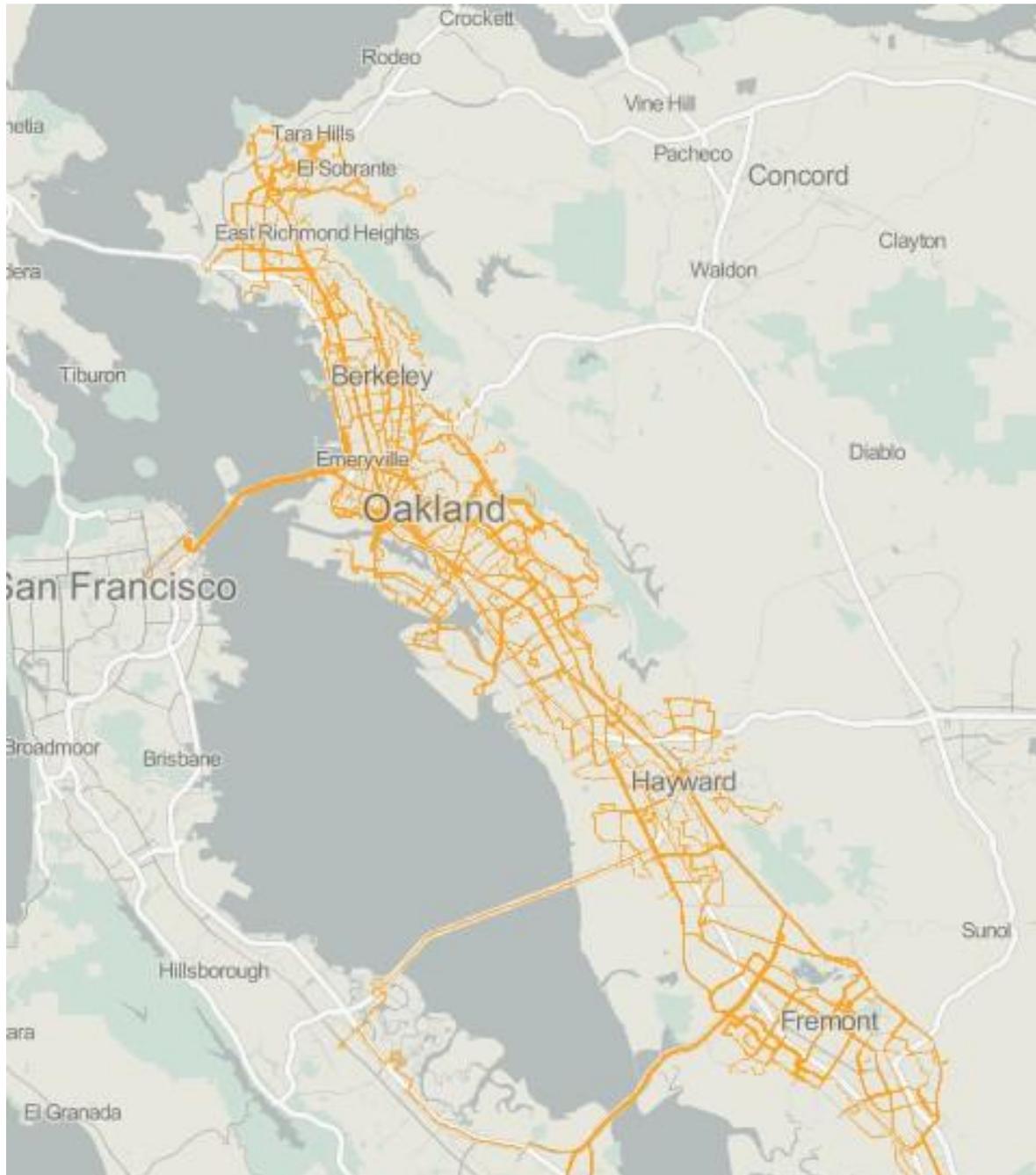
My archival work was primarily conducted at the Research Center and Labor Archives at San Francisco State University. The Research Center maintains a special collection on the Amalgamated Transit Union Local 192 covering the years between 1940 and 1990. The collection is organized by theme. Ultimately, I focused much of my attention on material dealing with the transit strikes of 1953 and 1977. I also collected documents and unpublished material

from UC Berkeley's Harmer E. Davis Transportation Library, the MTC/ABAG Library in Oakland and the personal collections of John Katz, Joyce Roy and Ron Hook of the NorCal Bus Fans-- AC Transit's unofficial historian. These documents were central in helping me develop a richer historical narrative in which to understand current and past struggles over transit in the region. The material I collected from John Katz and Joyce Roy on the early history of the Alliance for AC Transit and Bus Riders Union was especially important. This material -- which I use in Chapter Five -- has yet to be archived, published or otherwise circulated widely.

Whether in the interviews, the focus group, or in archival work, my focus was on how various individuals and groups understood transit's role in developing or restricting the public life of cities. I also paid close attention to instances in which people or organizations appealed to the language of rights. Many of the questions I asked in interviews reflected these preoccupations. For example, I ended each interview by asking informants about their thoughts on the idea of the right to the city or how they understood the role of transit in the public life of cities. Often these more open-ended questions offered the most rewarding answers.

Of course, I faced a number of challenges in conducting my research. In my original plans I had hoped to spend more time talking to individuals classified as transit dependent. While this happened on an informal basis and in the focus group, it was challenging to set up interviews with individuals solely based upon their identity as carless. Far easier was to talk to transit dependent individuals who were also transit advocates -- which was not an uncommon combination. In an attempt to get around this, in October, I designed and began distributing an on-board ridership survey. Given a limited budget, my own inexperience, and time constraints, this survey ultimately posed its own methodological challenges. As a result, I do not offer any serious engagement with the survey results in the forthcoming chapters. Other challenges simply

reflected the difficulty of conducting interviews with idiosyncratic people. There were five interviews I conducted that I was forced to scrap given the informant's refusal to sign a consent form.



Map 1: The East Bay and AC Transit Routes. Author: Kafui Attah. Using GeoCommons 2013.

## Chapter One: Rights in Transit, a framework

This chapter aims to answer two questions: Why should transportation geographers care about rights? And what, if anything, can debates over the right to the city add to our understanding of the geography of urban transportation? The chapter begins with two “transit stories” that make it clear just how important these questions are.

### **Philadelphia 2010**

In the winter of 2010, the city of Philadelphia was beset by a rash of unruly “flashmobs.” Described by *New York Times* reporter Ian Urbina (2010) as “part bullying [and] part running of the bulls,” Philadelphia’s flashmobs were notably destructive affairs.<sup>12</sup> In one flashmob, in late February, more than a hundred teenagers reportedly funneled into Philadelphia’s downtown Macy’s and proceeded to hurl snowballs, threaten shoppers and overturn displays. In March, a tsunami of teens flooded the city’s South Street business district and assaulted a pizza delivery man after he tried, in vain, to prevent a rowdy crowd from entering his restaurant. In one account from the same night, witnesses reported hearing the mobs chanting, “Burn the City” and “Black Boys” (Urbina 2010). For many in the city, the spectacle of hundreds of young people descending en masse on Philadelphia’s normally sedate streets proved utterly terrifying. Moreover, the fact that these mobs were almost exclusively comprised of black teens, only seemed to complicate debates on the matter. Philadelphia’s Mayor at the time was Michael Nutter, himself black. In response to what was seen as an assault on the public order, Nutter’s

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<sup>12</sup> The popular image of flashmobs has been of young adults using social media to stage comical events in public spaces aimed at challenging the traditional norms of city life. Often this has taken the form of highly choreographed and impromptu dances or sing-a-longs. Philadelphia’s flashmobs were something totally different.

demand was clear: that the city use everything in its power to crack down on the flashmob phenomenon.<sup>13</sup> One of the more controversial ideas floated was that of City Controller Alan Butkovitz. Butkovitz's idea was to focus on students' use of public transit. At the moment, Butkovitz noted, "students with free transit passes can use the system up until 7:00pm." Unfortunately, the more time spent on the public system, Butkovitz argued, the "more opportunity for student crime to occur" (Woodall 2010). Butkovitz's proposal was thus a simple one: to limit the use of student transit passes to 4:30 p.m. Pitched as a reasonable and commonsense measure that would help reduce the risk of future outbreaks, the plan's broad aim was fairly clear: to close the "window of opportunity for those students intent on creating havoc" by limiting their ability to congregate en masse in downtown Philadelphia (Woodall 2010; Steele et al. 2010). While some worried that the proposal would adversely affect students involved in afterschool sports or music, a supplementary plan was drafted to give students involved in "legitimate" afterschool activities a sticker enabling them to use their transit passes as before. Butkovitz's plan raised a number of deeper questions. In determining which students might be exempt from the plan, what would count as a "legitimate" afterschool activity? Would such a plan be fair to teenagers from carless families or teenagers with long commutes? More broadly still, was a policy that sought to limit the transit access of one class of individuals an appropriate response to fears of public disorder, or urban unrest? Would, for example, a similar policy response to a raucous gathering of Tea Party activists or Pro-Life protestors be considered an equally "reasonable or common sense" course of action? What might we say if this was the

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<sup>13</sup> In some instances this meant trying to hold the parents of underage teens responsible. In other instances it meant trying to charge teens with the felony offense of rioting -- a charge carrying as many as seven years in prison (Urbina 2010). In still other instances, city officials requested that FBI agents monitor social networking sites in order to preempt further disruptions (Steele et al. 2010).

response to “rioters” in Tahrir Square?<sup>14</sup> If on the one hand Butkovitz’s plan seemed a pragmatic response to the threat of public disorder, on the other hand it also threatened to have a “chilling effect” on the rights of teens to assemble, to move about the city, or to do anything other than what city officials deemed “legitimate.”<sup>15</sup>

## **Los Angeles 1965**

In 1965, Los Angeles exploded. In the month of August as many as 10,000 black residents from the Los Angeles neighborhood of Watts lay siege to the city. Over the course of six days, the city bore witness to marauding bands of rioters who looted stores, set fire to buildings, beat up white citizens, and exchanged shots with the police. At its close, 34 people were dead, 1,032 people were injured, 3,952 people had been arrested, and over \$40 million in property damage was recorded (Governor’s Commission 1965, 1).<sup>16</sup> Across the political spectrum, the Watts riots spoke to the reality of an increasingly splintered urban society in which blacks seemed to occupy an ever more isolated and destitute corner. Following the riots, then Governor of California, Edmund Brown, assembled a commission tasked with accomplishing two things: to explain why the riots occurred and to provide a set of recommendations so as to prevent any further unrest.

Unsurprisingly, the eight-member commission found a range of factors that contributed to the riot. These included: problems pertaining to police procedure, chronic unemployment, educational underachievement, and the continued influx of formerly rural populations into Los

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<sup>14</sup> Moreover, what might Butkovitz say if he learned that his proposal was little different than that of the Chinese government, following the pro-democracy protests in Tiananmen Square -- choosing to eliminate students’ free usage of intercity trains.

<sup>15</sup> The idea of a “chilling effect” refers to the limiting impact that overbroad laws may have on legitimate speech activity. See Frederick Schauer (1978).

<sup>16</sup> Predictably, public reaction split along political lines. While conservatives blamed the riots on poor leadership within the black community, or the creeping influence of foreign communism, the left saw the riots as the product of racist provocations and structural inequality (Conot 1968; Perlstein 2008).

Angeles -- mostly from the American south. In response, the Governor's Commission proposed a number of reforms. These ranged from reforms in educational policy, law enforcement protocols, and social welfare provision. One of the most interesting recommendations, however, was the Commission's explicit demand to improve transit service. Los Angeles' inefficient and costly public transportation system, the Commission suggested, "had a major influence in creating the sense of isolation, with its resultant frustrations, among the residents of south central Los Angeles, particularly the Watts area" (Governor's Commission 1965, 73). In 1965, to travel by public bus from Watts meant navigating a fragmented and disjointed transit system divided between four separate and uncoordinated transit agencies. For Watts' residents, not only were trips on public transit long, but they were also costly -- often involving numerous full cost transfers from one bus to another.

In response, the Governor's Commission offered a number of recommendations. These included: "The immediate establishment of an adequate east-west cross-town service [in Watts]," increasing the north-south service already available, establishing free transfer privileges for all riders, and increasing subsidies to the Southern California Regional Transportation District -- the transit agency serving Watts. Whether correctly or not, the Governor's Commission saw investing in public transportation as a pragmatic response to the riots and their cause. If the roots of the riot were grounded in Watts' social and economic isolation, investments in transit promised to do just the opposite: to better integrate Watts into the social and economic fabric of the rest of the city, providing Watts' residents better access to jobs, schools, and shops.<sup>17</sup>

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<sup>17</sup> In a retrospective editorial published one year after the riots, Mary Ann Leary (1966, B2) highlighted the transit challenges facing Watts' residents: "A major problem is transportation. In Los Angeles transit is poor. In Watts it is worse. At every bus stop, clusters of people wait 30 minutes or longer for the next bus to take them to jobs which may be a two hour journey away. Only 14% of Watts' residents own cars. No single bus links Watts to downtown Los Angeles. Multiple fares and hours of travel are required to reach major downtown employment centers."

If the Watts riots prompted city officials to expand transit service, similar unrest in Philadelphia prompted city officials to do just the reverse, to limit it. In the context of this dissertation, these vignettes matter not only because they present something of a paradox, but also because they pose a set of fundamentally new questions for transportation geographers. Transportation geography aims at understanding “the spatial relationships produced by transportation systems” and the role that transportation and transportation costs play in shaping patterns of human settlement, economic activity, and individual mobility (Rodrigue et al. 2006). Transportation geographers are not only interested in questions of accessibility and land use, but also in the practical task of improving the movement of people and goods across space. In many ways, the vignettes that begin this chapter pose an altogether different set of questions. These are questions about who can be in the city, who has the right to access the city, and who can get across town to work or play. They are questions about whether it is appropriate for cities to address public disorder by limiting transit access, or whether such limits threaten the democratic rights we have to public assembly, to reach jobs or to engage in peaceful civil disobedience. In the case of Los Angeles (to restate the “free rider problem”) they are questions about whether tax payers should be asked to subsidize a cost-ineffective transit line in a riot zone or whether cities are duty bound to provide equal transit service to all populations irrespective of service costs.

These questions ought to matter for transportation geographers. They ought to matter because they are questions about individual mobility, about the provision of urban transportation, and about transit’s role in defining the use of urban space. At the heart of this chapter, however, is the belief that the only way transportation geography can pose and try to answer such questions, is to take up issues of rights and, specifically, to take up the idea of the right to the city. For many, the obvious question will be, well, what do we mean by rights and what do we mean by a

right to the city? In response, the first part of this chapter will focus on defining rights by drawing on literature in legal and political philosophy. The chapter will then move on to look at what we mean by a “right to the city” and what such a concept might add to work in transportation geography. Lastly, this chapter will briefly draw on interviews conducted with transit policymakers, and transit advocates, in California’s East Bay to explore some of the ways that rights figure into debates over the provision of urban transportation. The chapter’s argument will be a simple one: not only should transportation geography take rights seriously but also the idea of the right to the city is, in fact, essential to understanding the geography of urban transportation.

### **Taking Rights Seriously**

To quote legal scholar Ronald Dworkin, rights matter because they are one of the few tools within a democracy by which the dignity of minorities can be secured (Dworkin 1977, 205). Rights exist not only as trumps against the whims of a democratic majority, but they also set the bounds of what laws and policies are legitimate and just.<sup>18</sup> Of course, rights also matter in situations that could hardly be described as democratic at all. On the wholly undemocratic shop-room floor, rights and rights-talk matter because they represent a check on potential exploitation and a check against unsafe working conditions.<sup>19</sup> The purpose of rights, human, civil, or otherwise, is thus precisely this, to mark out areas that governments and institutions -- democratic or not -- must not meddle in. As one might guess, there is a vast literature on rights and why rights matter. Some of this literature has sought to understand rights in the most general

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<sup>18</sup> In *Taking Rights Seriously*, Dworkin (1977) is particularly interested in the idea of civil disobedience and whether people indeed have a right to break the law. The right to free speech and the right to association, he argues, are rights only to the degree that they exist as ideals above and beyond laws that would deny them.

<sup>19</sup> Rights, in this instance, are also contingent upon the performance of certain duties. In the context of the workplace, one’s right to a vacation is conditioned upon one’s contracted duty to work a given number of hours.

terms -- often by making distinctions between different forms of rights themselves. Others have focused more on staking out which rights they believe ought to take precedence. The work of Wesley Hohfeld (1919) is prime example of the former. In an 1919 essay "Fundamental Legal Conceptions: As Applied to Judicial Reasoning," Hohfeld's broad argument is that clarity in jurisprudence demands that scholars be able to distinguish between different types of rights and different types of duties. Hohfeld's specific argument is that all legal entitlements can be understood as either one or a combination of four basic classes of rights: claim-rights, liberties, powers, and immunities. These rights were necessarily paired with what Hohfeld deemed their jurial correlative: duties, no-rights, liabilities, and disabilities. To have a claim-right meant to be owed a duty. To have a liberty right meant to be free of any duty. Powers and immunities granted their bearers the ability not only to impose a liability or a disability but also in doing so, to alter, override, or ignore existing legal entitlements. While each of these four rights can exist alone, more often than not, they work together as elements of a single legal right (Wenar, 2005). The right to property, for example, equally incorporates claim rights (that confer duties on others not to trespass), liberty rights (that allow proprietors to do what they want on their property), powers (to sell or give away the property), and immunities (from state confiscation). Hohfeld's point was that in disputes over legal rights, it is often the cleavages between rights as claims, liberties, powers, or immunities that are at issue. While same-sex marriage may be widely accepted as a liberty right, it only becomes a claim right or a legal power in particular U.S. states. Similarly, recent debates over healthcare have been over whether one person's right to healthcare (and the duty of states to provide it) requires that others give up their liberty/privilege to go uninsured.

Hohfeld was not alone in highlighting distinctions between different types of rights. Scholars like Jeremy Waldron (1993) have done work in a similar vein. In his essay "Two sides of the same

coin,” Waldron draws a distinction between what he deems first, second, and third generation rights. Where first generation rights refer to the traditional liberties and privileges of citizenship (free speech, religious liberty, etc.), second generation rights refer primarily to socioeconomic entitlements like housing or a fair wage. Third generation rights, Waldron argues, are the rights attached to communities, peoples, and groups. They refer to people’s entitlements to language and culture, as well as diffuse goods like environmental sustainability (1993, 5). Like Hohfeld, Waldron’s aims were to clarify what he saw as both the overly broad and analytically weak nature of rights-talk. The works of Waldron and Hohfeld are important, but more common still has been literature aimed at figuring out just what types of rights ought to take precedence. While liberal writers like Henry Shue (1980) or Isaiah Berlin (1969) advocate for the primacy of socioeconomic rights,<sup>20</sup> libertarian writers like Robert Nozick (1981) take a wholly different position -- suggesting that the individual right to property should supersede all else. Still for others, socioeconomic rights or rights to private property mean very little without a right to self-determination -- this was, in fact, precisely the argument that undergirded the anti-colonialist and nationalist movements across Africa and Asia in the post-war period. Many of these movements were focused on asserting collective rights to land, culture, and language. Many, in fact, would ultimately point to the 1948 United Nation’s Declaration of Human Rights -- a document that itself was an attempt to delineate which rights ought to constitute the international standard.

Debates over rights have thus been wide ranging -- moving rapidly from debates over how to distinguish between different types of rights, to efforts to stake out which of these rights ought to take precedence. The general idea of why rights matter, however, remains largely the same. Rights matter because they are concerned with what Henry Shue (1980, xi) calls “the moral

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<sup>20</sup> Henry Shue (1980, xi) has argued that a right to liberty or freedom is nothing but “cheap and empty promises” for those who lack the basic ability to feed, shelter and clothe themselves.

minimum.” Rights represent the “lower limits of tolerable human conduct, individual and institutional.” They describe “the least that every person can demand, and the least that every person, every government and every corporation must be made to do” (1980, xi). For this chapter, it is the broad definition of rights that matters most. But what about something like a “right to the city”?

The idea of the right to the city comes out of the work of the French Marxist philosopher Henri Lefebvre (1996 [1968]). Writing in the 1960s, Lefebvre’s notion of the right to the city became something of a rallying cry for the worker-student demonstrations that paralyzed France in 1968. Since first appearing in his essay “Le Droit et la Ville,” what Lefebvre meant by the right to the city has long been a topic of debate. In Lefebvre’s (1996[1968], 178) own words, the right to the city was “a right to urban life, to renewed centrality, to places of encounter and exchange,” as well as a “cry and demand” for a more just city. In arguing for a right to the city, Lefebvre was not only responding to what he saw as the increasingly functionalist and alienating transformation of French cities, but also the implicit need to better theorize the relationship between cities and postindustrial capitalism (Mayer 2011).<sup>21</sup> As geographer Neil Smith (2003) argued in the preface to Lefebvre’s republished *The Urban Revolution*, Lefebvre’s work was unique in its ability to chart a course between a structural Marxism dismissive of cities (Castells 1979) and an urban sociology dismissive of the larger economic process that had given rise to cities in the first place (Burgess and Park 1984[1925]). For Lefebvre, cities were not only central to explaining capitalism’s persistence but, even more importantly, they were central for imagining an anti-capitalist future. If industrial capitalism had “rescued” people from “the idiocy

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<sup>21</sup> Given his advocacy of student protests and his long standing interest in the French communard movement, it is not surprising that Lefebvre directed some of his harshest critiques at urban planners like Le Corbusier who sought to erase spontaneity from the city, by either “killing the street” or reducing urban residents -- in top down plans -- to either machines or variables (Merrifield 2006, 91).

of rural life” -- as Marx and Engels (1998 [1848]) argued over a century earlier -- for Lefebvre, the right to the city was about embracing and promoting the radical possibilities implicit in that very transformation -- a transformation defined by new concentrations of people and new collective identities. For Lefebvre the demand for the right to city was not only about harnessing the collective power of newly urbanized workers, but it was also about rejecting policies that, through urban design and urban policy, sought to isolate, alienate and separate those very workers. Lefebvre’s call for a right to the city was thus also about rescuing people from what one might call the *idiocy* of urban life. Here and in later chapters, the notion of idiocy is used in the same sense as Marx and Engels intended it in 1848 -- as a synonym of isolation, separateness, and individuation.<sup>22</sup> In the last 15 years, the idea of the right to the city has enjoyed something of a renaissance. Various social movements across the globe have incorporated the idea of the right to the city in their struggles. These have included groups like the US-based Right to the Alliance, largely focused on fighting gentrification; the anti privatization campaigns of Zagreb’s Right to the City/ Green Action Alliance, and South Africa’s Abahlali baseMjondolo, a grassroots organization that has fought against slum clearances in the city of Durban (Mayer 2011). Many of these groups have focused on issues of gentrification and displacement. Others have broadened their campaigns in fights against urban austerity and public disinvestment. The right to the city has even shown up as a central component of the United Nations’ Habitat program -- a program aimed at promoting “participatory and inclusive styles of local governance” in cities throughout the developing world (Merrifield 2006).

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<sup>22</sup> What Marx and Engels meant by “the idiocy or rural life,” of course, was not that rural people were idiots or stupid, but that rural life was idiotic in the sense that it was an isolated life (1998[1848]). Idiocy shares the same Greek root (*Idios*) as the words *idiosyncratic*, *idiolect* and *idiographic* -- each refer to one’s own private life.

Within geography, a number of scholars have picked up the idea of the right to the city. The work of geographers David Harvey (2006) and Don Mitchell (2003) has been particularly admirable in its attempt to retool Lefebvre's admittedly abstract work to the demands and challenges of the modern city. While David Harvey has defined the right to the city as a collective right against the excesses of urban neoliberal capitalism, Mitchell has drawn on the idea to talk about the specific challenges facing the homeless and the city's most marginal people. Perhaps to the annoyance of people like Hohfeld or Waldron, it is not entirely clear what type of right a right to the city is (Attoh 2011). Instead, the idea of the right to the city has come to refer to any number of rights -- from a collective right to urban surplus (Harvey 2006), to a socioeconomic right to housing (Marcuse 2009), to a right to a fuller democratic participation (Purcell 2005), to the individual right of the homeless and immigrants to simply be in the city (Mitchell 2003; Dikec 2005). Despite such variation, what connects much of this literature is a critique of urban policies that are seen to either exclude marginalized groups, or urban policies that arguably undermine democracy by leaving the power of developers and elites unchecked. For proponents of the right to the city, rights matter in the same way they do for Dworkin, for Waldron, for Nozick, or for laborers on the shop room floor -- they matter in that they impose a "moral minimum" in debates over who the city is for, what public space and private should look like, and what counts as a just city.

### **Urban Transportation and Rights?**

Transportation geographers have long been interested in the relationship between cities and transportation networks. In fact, some of the earliest work in transportation geography focused specifically on the relationship between transportation networks and the spatial structure of urban regions and hinterland. Early studies like those of Von Thunen (1826), and later ones like those

of Taaffe and Gauthier (1973), all emphasized the ways in which the marginal transportation costs of urban industries necessarily shape how cities develop and grow. Such early work defined the relationship between transportation and cities in primarily economic terms. Much has changed. During the behavioral turn of the mid 1970s, transportation geographers were keen to expand on the ideas of Swedish geographer Torsten Hagerstrand (1970) and to shift from research on aggregate flows to research aimed at making sense of the travel behavior of individual people in cities. The work of geographers like Mei Po Kwan (1999) and others has followed in this tradition, approaching studies of urban transportation networks from the unique perspective of individual bus riders and commuters. Kwan's 1999 study of the travel patterns of individual working women in Franklin County, Ohio, is a good example of this type of research. Transportation geography has also had its fair share of more historical work. In studies like those of Vance (1986) and Cronon (1991), geographers have sought to retell the history of entire cities and urban systems from the perspective of the roads, rails, and canal-ways running through them. Such work has taken great care in noting the importance of transportation innovations in the rise of cities like Chicago or the precipitous decline of cities like Syracuse or Utica. Notably a great deal of modern transportation geography has approached urban transportation issues through the lens of social policy. This work has focused on issues around welfare reform (Blumenberg 2001), transit subsidies (Hodge 1988), urban inequality, and on the costs and benefits of particular urban transportation investments (Cervero 1990). As should be clear, transportation geographers have approached the relationship between urban cities and transportation in a variety of ways. However, much of this scholarship -- from Taaffe and Guathier all the way to Hodge (1990) and Kwan (1999) -- has maintained a fairly consistent set of concerns. These are

concerns with the friction of distance, a concern with transportation costs, a concern with policy, and a concern with utility maximization (Hanson 2003).

To put it bluntly, transportation geography has had little or nothing to say about rights. Thus, to talk about rights, or a right to the city with respect to urban transportation is to do two things: it is to place emphasis on the ways that the legal and moral structure of cities shape what transportation networks look like, and it is to emphasize what is at stake -- in the broadest moral sense. Rights, as I have defined them, refer to the moral and social minimums of society. They refer to the least of which governments and institutions are duty bound to do, and they set the bounds on what policies or laws are legitimate. Rights, whether on the shop room floor, in the court room, or -- as Lefebvre might note -- in the production of urban life, matter in that they set limits on the conditions under which we must live and that we must tolerate. With respect to the geography of urban transportation, emphasizing rights and the right to the city simply means we are interested in a certain set of questions. It means we are interested in determining if there is, or if there should be, a moral minimum in how we provide urban transportation. We are interested in knowing how that minimum is negotiated and struggled over. We are interested in the role of transportation in determining who belongs in the city and under what terms and conditions they must live. In raising the issue of rights, we are interested in the relationship between the provision of urban transportation and the ideals of urban democracy. We are interested in transportation's role in securing an accessible urban public sphere. These are questions, that while they are largely absent from scholarship in transportation geography, are hardly absent from the public debates on urban transportation that take place on the ground.

Take, for example, debates in the 1980s over laws requiring wheelchair lifts on public buses. In cities that had long offered free door to door trips to the functionally disabled through paratransit

service, why, the question became, was it important that public buses in these cities be equipped with wheelchair lifts as well? Why was it the duty of transit agencies to provide any more than what was already available? Wheelchair lifts were not only expensive, but for most of the public they often came with significant service delays. The three extra minutes that it takes to get a wheelchair rider on a bus using a lift, for example, translates into three fewer minutes that one might have to get to work, or three fewer minutes that the driver has to go to the bathroom at the end of a run. To offer a quite simple answer, wheelchair lifts are on public buses because the disabled have a right to them. Irrespective of the cost to the transit agency or their cost in inconvenience to other passengers, the disabled have a right to equipment that allows them to use public transportation in the same way as the rest of the public. As Barnett and Shaw (2001) document, this was not always the case. The presence of wheelchair lifts on buses owes a great deal to the struggles of organizations like ADAPT (Americans Disabled for Accessible Public Transit) and countless activists who not only waged legal battles and letter writing campaigns through the 1980s, but often took their fight directly to the streets. In cities as diverse as Phoenix, Los Angeles, and Washington DC, disabled activists blocked traffic, and literally threw themselves under buses to draw attention to the need for wheelchair lifts. Despite resistance from organizations like the American Public Transit Association (APTA) -- the nation's oldest and largest transit advocacy organization -- as well as from individual transit agencies, groups like ADAPT made it a priority to define wheelchair lifts as a right.<sup>23</sup> By the time that the Americans with Disabilities Act (ADA) passed in 1990 -- a law containing a provision requiring

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<sup>23</sup> Throughout the 1970s and 1980s, groups like ADAPT took aim at both individual transit agencies and organizations like APTA which were resistant to mandating wheelchair lifts and which were more comfortable with a "state's rights" approach -- allowing local transit agencies the autonomy to decide what constituted accessible transit for the disabled. In 1979, it was APTA that successfully forced the courts to throw out regulations demanding that transit agencies equip 50% of all peak service buses with wheelchair lifts (Barnett and Shaw 2001).

all transit agencies to buy lift-equipped buses -- the moral argument for wheelchair lifts had long been won.

The fight for wheelchair lifts was, of course, a particular one. Apart from serving to galvanize the disability rights movement, the fight for wheelchair lifts on public buses was, at its broadest, about defining access on new terms. More specifically, it was a direct critique of the notion that subscription services like that of paratransit or dial-a-ride service constituted equal, just, or appropriate service. How, one might ask, could one go to school, or go on a date, or volunteer somewhere, if the only trips worth funding were medical trips? Why should one have to ask permission to get across town? What was wrong with being able to ride the bus with the rest of the public? As Stephanie Thomas (2001, viii) of ADAPT argued, wheelchair lifts were important because they secured for the disabled not only the right to ride public buses like the non-disabled but also the right to be part of the public, the right to be fuller citizens, the right to be spontaneous, the right to access a public space without asking permission or seeking approval, and a right to be a fully participating member of society. In short, the demand for wheelchair lifts was demand for a right to the city.

While studies on the elasticity of transit demand, central place theory, or abstract models of aggregate transit flows all remain useful tools for transportation geography and planning, they can tell us very little about how to understand flashmobs in Philadelphia, riots in Los Angeles, or why wheelchair lifts exist on public buses. They can't tell us what level of transportation people are entitled to. Likewise, when we weigh the costs and benefits of transportation investments like wheelchair lifts or, alternatively, a new cross town transit route through a riot ravaged neighborhood like Watts, we would be remiss not to reference larger debates over what is just, or to reference broader questions about who cities are for. When we want to understand why

transportation in cities looks the way it does, or what is at stake in urban transportation investments, rights provide a crucial language and metric. To talk about rights in transportation is to talk about what historian E.P. Thompson (1993) might describe as the “moral economy” of urban transportation, or the “system of values, customs and mores” that undergird transportation networks. Of course, to study rights or the moral economy of transit is no easy task. Rights are not fixed variables that one can simply solve for. To study rights is to study social policy in relation to some moral minimum, and invariably, it is to study the history and the debates that have shaped what that minimum has looked like.

### **The Problem with AC Transit**

Of all the civil rights that exist, whether it is food security, housing, healthcare or education, the right of transportation is the most integral to each and every one of those rights, we must preserve the right of transportation in the Bay Area [...]. If we can't avoid an apocalyptic collapse of AC Transit, then prepare to share the roads with an underground economy of quasi-legal jitney and car services that will be necessary to meet the needs of a desperate people.

(Karen Smulevitz, AC Transit Board Meeting, September 22, 2010)

This chapter began with two questions: why should transportation geographers care about rights? And what, if anything, can debates over the right to the city add to our understanding of urban transportation geography? Thus far, the argument has been fairly straightforward: that despite transportation geographers reluctance to engage these ideas, rights and right-talk are an important part of efforts both to understand the geography of urban transportation and to

understand what that geography means in the broadest moral sense. The following section will suggest that nowhere is this more apparent than in California's East Bay.

California's "East Bay" is an informal designation that refers to the cities and towns immediately east of the San Francisco Bay (Map 1). With a long history of racial and labor radicalism, the East Bay's cultural identity is perhaps more defined than its spatial limits.<sup>24</sup> Largely coterminous with the borders of Alameda County and Contra Costa County, the East Bay stretches from the city of Fremont in the south to Richmond in the north. In addition to the larger cities of Oakland, Berkeley, and Richmond, the region also includes a number smaller cities and unincorporated areas, from small cities like Walnut Creek and Martinez to unincorporated areas like Pacheco and Port Costa. These cities are connected by a network of roads, highways, freeways, and transit corridors. Interstate 880 traces a north-south course along the western shore while State Highway 24 connects the urbanized coast with the more suburban and rural cities of the East. Commuter rail in the East Bay is provided by the Bay Area Transit District. The largest bus-only operator in the East Bay is the Alameda Contra Costa Transit District (AC Transit), which serves roughly 250,000 daily riders. County Connection, WestCat, WHEELS, Tri Delta Transit, and Union City Transit all provide complimentary service in the East Bay's more suburban districts. Debates over the provision of urban transportation in the East Bay have a long history. These debates have run the gamut from perennial concerns surrounding congestion and new infrastructure investments, to the provision of public transit. In recent years, many of the loudest and most notable debates have centered on the plight of the AC Transit. Following a decade of fare hikes and service cuts, these debates became most acute in 2010.

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<sup>24</sup> Both Chris Rhomberg's (2004) *No there there*, and Robert Self's (2003) *American Babylon*, provide an excellent review of the East Bay's history of labor and racial radicalism.

In 2010, AC Transit faced the daunting task of closing a budget deficit of \$56 million. Over the course of a year, AC Transit reduced service by 15%, hiked fares, shut the doors of its Richmond bus garage, and engaged in a highly public dispute with the Amalgamated Transit Union Local 192 (ATU 192) -- the labor union representing its bus operators and mechanics. With the highest minority ridership in the 12 county Bay Area (~73% in 2007), and with a high proportion of transit-dependent riders (59% in 2008), the problems at AC Transit became a touchstone in a broader debate over transit equity (Gotbe Research 2009; AC Transit ridership survey 2010).<sup>25</sup>

However dire they appeared, AC Transit's problems in 2010 were not particularly novel. AC Transit's budgetary woes were in fact long in the making. California's evolving fiscal crisis, cuts in federal operating aid in the mid-1990s, and the long lasting impact of Proposition 13, had pushed AC Transit to the brink of insolvency on more than one occasion.<sup>26</sup> Even as early as 1957, when voters in Alameda and Contra Costa County voted to establish the AC Transit District to replace the private and bankrupt Key System Transit Lines, transit ridership had already experienced two decades of decline. East Bay residents like the rest of the country spent the post war years satisfying their aspirations for private automobiles. The problems of 2010, however, seemed to speak to a newer reality, and a reality with its own decidedly political challenge.

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<sup>25</sup> In April 2005, Sylvia Darensburg, a mother of three, living and working in Oakland, filed a civil rights lawsuit against the Bay Area's Metropolitan Transportation Council (MTC). With the support of several non-profit organizations, Ms. Darensburg argued that the apparently neutral funding practices of the MTC constituted disparate impact discrimination and thus violated state and federal civil rights laws, which prohibit state agencies from discriminating on the basis of race, sex, gender, ethnicity, or nationality. Darensburg, and her co-defendant Vivian Hain, argued that the MTC's funding formula benefited white suburban riders at the expense of AC Transit's largely minority clientele (*Darensburg v. MTC* 2009).

<sup>26</sup> Billed as the "tax-payers bill of rights," Proposition 13 was enacted in 1978 as a voter initiated amendment to the California constitution. Proposition 13 capped property taxes at 1% of their 1975 assessed values. For public agencies like AC Transit, which had relied on revenues from property taxes, Proposition 13 was a major blow.

The problem with AC Transit, according to one AC Transit board member -- whom I interviewed in the fall of 2010 -- is that AC Transit has become a program. More precisely, AC Transit's problem was that it has become a program specifically for the poor and the transit-dependent. Programs, he noted, "don't live long in this country." What lives long, he argued, are services with widespread appeal.<sup>27</sup> AC Transit has ceased to be this. With over 70% of its riders making less than \$50,000 a year, AC Transit had become -- much to the board member's displeasure, "poor people's transit" (AC Transit ridership survey 2010; AC Transit board member, Interview, November 12, 2010). Its appeal, whatever it may have been in 1960, now increasingly seems restricted to an ever isolated population of transit-dependent riders -- individuals who use buses more as clients than as customers. AC Transit's ridership, of course, is generally like a great many transit systems in the US. In many cities, to talk about transit, and bus transit in particular, is invariably to talk about the poor, the disabled, and the carless.

With each passing year, the board member observed, it has become easier to pigeonhole bus transit in the East Bay as a social service for the undeserving poor. Rather than serving a broad swathe of society, transit in the East Bay has increasingly become the refuge of those without any other option. Without a broader base of support, he suggested, the future of transit in the East Bay was bleak. Of course, others noted that while service reductions might address immediate budget concerns, their long-term effects were pernicious. With every fare hike and service reduction, the result was not only less fare revenue, but fewer riders and an ever smaller political constituency. As Steve Gerstle (2010, Interview, October 13, 2010), a longtime transit activist

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<sup>27</sup> Many might attribute the persistence of something like Social Security, and alternatively the fate of means-tested programs like Aid to Families with Dependent Children (AFDC), to the fact that Social Security enjoys a much wider political base. The board member's fear was that transit in the East Bay was increasingly AFDC on wheels. In some ways, however, this argument is not wholly convincing. The fact that transit agencies like BART or MUNI still struggle financially despite having a larger proportion of middle-class riders, suggests that AC Transit's problems are not due only to the absence of such riders alone.

from the city of Alameda, suggested, “it’s kind of like emptying a village out before you invade - - you starve them out [so that] by the time you send in your invading army there are no [...] people left to defend it.” After so many service cuts, Gerstle asked: at the end of the day who, if anyone, “will be left to defend AC Transit?” Local efforts to support a higher federal gas tax, or to demand more federal operating aid, or to develop a more robust congestion pricing and strengthen parking cash out laws,<sup>28</sup> have been admirable, but they seem wildly implausible to many in the Bay Area, given AC Transit’s inability even to maintain already minimal levels of transit service. As the board member noted, improving the economic and political sustainability of transit would require that agencies like AC Transit attract new and wealthier patrons. But as many transit agencies have learned, AC Transit included, investing in projects aimed at new middle-class riders -- such as bus terminals with Wi-Fi or new bus routes to suburban areas -- is no easy task, especially when transit agencies are both morally and legally bound to serve the transit-dependent.

With a 15% drop in local service, and with the threat of even deeper cuts in 2011, in 2010 the question facing many observers of AC Transit’s crisis was increasingly stark; the question was not about how to attract more riders but whether, in fact, there should exist a moral minimum in the provision of transit at all? How much transit service, the issue seemed to be, are cities and transit agencies duty-bound to provide? What is the minimum level of transit service that is morally acceptable? If voters and legislators in the East Bay simply opted to scrap the whole transit endeavor, what safeguards would exist for Oakland’s transit-dependent? What safeguards, rights, or protections should exist for transit-dependent people when their transit service is

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<sup>28</sup> Parking cash out laws require certain employers, who provide subsidized parking for their employees to offer a cash allowance in the place of a parking space. The hope is that the employee will use this cash allowance to use transit (Shoup 1997).

threatened? These questions, of course, should sound familiar. After all, they are the questions that trail almost every so called social “program.” When we are debating social security we are asking: what is the moral minimum our society owes the elderly? When we are debating welfare programs like Aid to Families with Dependent Children (AFDC), or Temporary Assistance for Needy Families (TANF), we are asking: what are the minimum benefits that we are duty-bound to provide to single mothers with dependent children? Debates over public transit in places like the East Bay have increasingly been defined along similar terms. More and more, the questions that dominate debates around transit have been less about how to grow or expand transit, than about defining what is the least level of mobility or accessibility riders should consider acceptable.

Over the last 15 years, the East Bay has become home to a robust network of organizations focused on the idea of transportation justice. Of course, the driving fear for these groups is that AC transit may suffer the fate of AFDC or any other “social program” aimed at the poor and marginalized. The East Bay’s transportation justice community consists of a range of organizations. These span from regional outfits like Urban Habitat and Transform, to smaller groups focused on the more specific transit needs of the disabled and elderly, like United Seniors of Oakland and Alameda County (USOAC), the East Bay Center for the Blind (EBCB), and Berkeley’s Center for Independent Living (CIL). In addition to more institutional players, the East Bay has also seen its fare share of more grassroots groups. These span from faith based groups like Genesis and community organizations like the Alliance of Californians for Community Empowerment (ACCE), to earlier groups like the Alliance for AC Transit and Bus Riders Union which disbanded in 2006. During its time, the Alliance for AC Transit, in particular, was a key player in fomenting a culture of transit advocacy in the East Bay. This

advocacy took many forms. In 1998 they were a central driver in resisting efforts by local businesses to relocate Oakland's downtown bus hub to a more peripheral location. They were not only successful in stopping what was considered a blatant attempt to remove poor people from downtown, but they were also successful in eventually helping to redesign the station in ways that would make it more accessible for the disabled and elderly. In 2000, the Alliance for AC Transit and Bus Riders Union authored the nation's first Bus Rider's Bill of Rights -- an attempt to codify the rights of bus riders to courteous and competent treatment, clean buses, timely service, and safety (Ferris 2000). The fight for better transit in the East Bay has also included a whole range of campaigns of a more personal and individual nature. These have included the campaigns of people like Kristan Lawson, a Berkeley resident, who in 2010 started to campaign for a new transit system in Berkeley dubbed the B-Line. There is also the work of transit activists like Joyce Roy, who has attended virtually every AC Transit board meeting to denounce the latest model of VanHool buses for lacking sufficient seating for the elderly. Whether it is more established groups like Urban Habitat and Transform, more grassroots groups like the Alliance for AC Transit, or individuals like Joyce Roy or Kristan Lawson, the goal has been the same: to set some moral minimum in transit service and to provide a safeguard for transit riders when transit service is threatened.

The idea of the right to the city is implicit in transportation justice and much of what has constituted the demand for better transit in the East Bay. The original idea of the right to the city, of course, is traceable to Lefebvre's frustration with an urban life increasingly defined by alienation, isolation, and exclusion. In cities like Paris, not only were the poor being ejected unceremoniously from the central city, but they were being doubly denied their right to participate in the democratic process. The right to the city for Lefebvre was thus a cry and a

demand for a different type of city -- a city more reflective of people's desires. Against the rigidity and *idiocy* of modernist schemes and planned developments, Lefebvre's imagined city was more on the model of the Paris Commune, or of the Parisian street in the summer of '68; it was a city rife with places of "encounter and exchange." In the East Bay, the transportation justice movement, in many ways, has emerged with similar aspirations. Not only has it emerged as a movement aimed at asserting transit's centrality to the city, but it has also focused on fighting transit policies that it views as isolating, *idiotic*, or that run rough-shod over people's democratic rights. In fact, some might argue that fights like those to keep Oakland's central bus hub in the center of downtown are perfect expression of what the right to the city idea is all about. One might make the same claim after talking with transit activists like Fran Hastlesteiner, or after meeting with members of the EBCB. For them, the fight for transportation justice was a fight to not be "shut off from the rest of society," or to be "prisoners of their home." For them, the fight for transportation justice was a fight against isolation. In each case the links between the right to the city idea and fights for transportation justice in the East Bay ought to be clear (Fran Hastlesteiner, Interview, October 10, 2010; EBCB, Focus Group, November 9, 2010).

The language of rights and the language of a right to the city matter in the East Bay, not only because they go beyond the limited framing of aggregate models and cost benefit analysis, but also because, in many ways, that *is actually* how East Bay's transit-dependent and their advocates understand transit. For people like Kristan Lawson, Karen Smulevitz, members of EBCB, or members of Urban Habitat, rights are central to how they understand transit and their political activism around it. For them, transit is no less a right than elementary education or food; in fact it is essential to both. For them, and a great many others, public transit is a right to independence, a right to meet friends, and a right to access the city. Of course, it's not just the

activists for whom rights matter, questions of rights matter for transit agencies and transit planners as well. For organizations like AC Transit, the question of rights is largely a legal question concerning liability. For planners, drafting a transit system means learning to tip toe around the rights of bus operators, the rights of the disabled, the rights of minority riders, and the subsequent fears of lawsuits, work stoppages, and public protests. One might find it curious to discover the existence of what AC Transit deems Title VI lines. In accordance with federal civil rights legislation, AC Transit has designated that certain bus routes -- due to the fact that they serve primarily minority neighborhoods -- must take priority when cuts to service are unavoidable. In 2010, for example, when AC Transit planned to cut back weekend and night service, they spared line 45 and line 26 -- both Title VI lines. Disputes immediately erupted over why such low ridership lines ought to be spared, what the legal implications for AC Transit would be if they were cut, and if sparing them gave unfair preference to some populations over others. Why, many asked, did some transit dependent populations have more rights than others?<sup>29</sup>

## **Conclusion**

I opened this chapter with two anecdotes. The first came from Philadelphia where a spate of violent flashmobs prompted city officials to consider restricting teen use of the transit system. The second was from Los Angeles' Watts neighborhood where city officials took exactly the opposite tact: arguing that expanding transit access to riot zone was necessary to relieve some of the tension that had given rise to the riots. Set side by side, I argued, that these stories ought to

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<sup>29</sup> To understand the geography of urban transportation in the East Bay one, of course, cannot restrict one's gaze only to the right or political struggles of the transit-dependent. Of equal importance are the political struggles of AC Transit bus operators for lunch breaks, division signups, spread time restrictions, healthcare co-pays, and over the right to strike (Chapter Four). Equally important are the numerous challenges that transit agencies face in enacting new policies -- whether those challenges include grappling with the lasting effects of Proposition 13, various liability issues, or shifting public opinion. These issues will all be addressed more fully in the ensuing chapters.

matter for transportation geographers. I argued that they ought to raise questions about the relationship between transit policy, urban unrest, race, public space and the duties of transit agencies. More than that, they ought to raise questions about rights, about the moral minimum of urban mobility, and transit's role in cities that are, by definition, conflictual. In recent years, questions of rights, public space, and cities have all coalesced in scholarship on the right to the city (Harvey 2006, Mitchell 2003, Mayer 2011, Purcell 2005, Attoh 2011). This has been scholarship focused on both the modern city's proclivity to exclude and banish the poor, as well as efforts to secure cities as places of encounter and exchange. There have been any number of organizations in the East Bay who have made similar demands and done so by focusing on the role of transit. For such groups the right to public space, the right to access places of exchange and encounter, is necessarily contingent on quality public transportation.

To take rights seriously in the study of transportation geography is not only to return to Philadelphia's flashmobs and the Watts riots, with renewed vigor, but it is also to approach new scenarios with a different set of eyes -- a set of eyes more attuned to broader issues of urban democracy and urban citizenship, and where transit fits into those concerns. It is to look again at events like those in San Francisco in 2011 when hundreds of protestors flooded into the Bay Area Rapid Transit District's Civic Center Station to protest the agency's recent policy of blocking cell phone usage in its stations. In the wake of another possible case of police brutality carried out by the BART police, the agency had hoped to prevent yet another embarrassing viral video and yet another well-organized online protest movement. Many protestors argued that the cell phone policy violated people's rights to assemble peacefully and to free speech.

This chapter has argued that rights and the idea of the "right to the city" should be more central in discussions on the geography of urban transportation. It started from the assumption that

debates over rights matter in shaping what transit looks like and that such debates are important for framing exactly what is at stake in the delivery and provision of a public good like urban mass transit. While there has been some work in mobility studies (Cresswell 2006, Larsen et al. 2006) addressing issues of rights and justice, and while Edward Soja's (2010) recent book *Searching for Spatial Justice* does a nice job of alluding to the importance of transit, alongside the idea of the right to the city, the questions undergirding this chapter start from a different premise. They start from the premise that without a discussion of rights, a subdiscipline like transportation geography can only offer an impoverished view of the city and transit's role in it. It also suggests, although less forcefully, that a similar logic applies to debates and work on the right to the city. Without some discussion of urban transportation, debates on the right to the city are incomplete. The importance of including rights in debates over transit is not only evidenced in efforts to explain the difference between Watts and Philadelphia, but also in efforts to explain why the fight for wheelchair lifts in the 1980s mattered, or what we should make of the nascent struggles in the East Bay around transportation justice. The next chapter will further develop this argument but focus on putting that argument within a broader historical context, namely by focusing on the idea of "the urban transportation problem."

## Chapter Two: The Urban Transportation Problem

The East Bay's transportation problem is fundamentally one of moving people, and in the long run it can only be solved by providing an effective transit system.

-Oakland City Planning Commission Staff. *The Transit Problem in the East Bay*.

March 1950.

Where ends are agreed, the only questions left are those of means, and these are not political but technical, that it is to be settled by experts or machines like arguments between engineers or doctors. That is why those who put their faith in some immense world transforming phenomenon, like the final triumph of reason or the proletariat revolution, must believe that all political and moral problems can be turned into technological ones.

-Isaiah Berlin. "Two Concepts of Liberty." In *Four Essays on Liberty* 1958 p. 118

In 1911, Bion J. Arnold, a civil engineer, consultant, urban planner and the inventor of the electric third rail, penned an essay entitled "The Urban Transportation Problem." Arnold had spent the majority of the previous ten years working for Chicago's Street Railway Commission and by 1911 he was already a prominent national consultant on urban transportation affairs. For Arnold and many of his contemporaries, the urban transportation problem signified something quite specific. It referred to concerns over urban congestion, traffic accidents and the general problem of efficiently moving people through what was a rapidly changing city. At the turn of century, of course, cities like Chicago were exploding. Not only were they characterized by exponential growth and congested streets, but one encountered in them transit systems in utter

disarray. To travel in many cities was to travel by way of an uncoordinated, unplanned, dangerous and fragmented system of horse-cars, cable cars or electric street railways -- none of which seemed capable of keeping pace with the rapid rate of urban growth. Where private traction companies proliferated in cities like Chicago, they were often perceived as wholly unresponsive to the needs of patrons. Free transfers between separate traction companies, for example, were often prohibited and little attention was given to synchronizing schedules or routes between competing companies. Rather than serving the public, traction companies seemed bound to the altogether divergent demands of traction barons, bondholders, and corrupt public officials. For Arnold and others, the urban transportation problem was a reference to the need for regulation, the need for greater coordination, and the need to mitigate the problems of a daily urban commute that had grown costly, complicated, and long (Arnold 1911).

In 1965, 54 years after the publication of Arnold's "The Urban Transportation Problem," John Meyer, John Kain and Martin Wohl published a book of the same title. Of course, a great deal had changed. Meyer, Kain, and Wohl's book emerged in the midst of Lyndon B. Johnson's "War on Poverty." It appeared in the same year as the Watts riots and it hit shelves one year after the passage of the Urban Mass Transit Act (UMTA). Compared to cities in 1911, the postwar American city was an altogether different animal. Urban race riots and civil unrest seemed to spell a general crisis in urban society. Rather than beacons of hope or opportunity, cities were increasingly becoming synonymous with despair, racialized crime, and rapid disinvestment. For many families, upward mobility increasingly meant relocating to suburban tracts far away from the crime, joblessness, and concentrated poverty that increasingly defined cities. By 1965, many of the private traction companies that had emerged at the turn of the century were bankrupt. Unable to compete with the rising dominance of the automobile, private bus companies not only

found themselves with fewer customers, but they also found themselves competing with those same automobiles for the ever more limited space of the street and the expressway. In 1965, as it was in 1911, the urban commute was costly, complicated, and long. To talk about the urban transportation problem in 1965 was to talk about peak hour congestion, white flight, suburban sprawl, and urban disinvestment. The city was different in 1965, and the challenges of urban society had shifted; nevertheless, urban transportation remained synonymous with a problem.

What explains the persistence of the “urban transportation problem” idea? What might a solution to it entail? And what if anything might it have to do with transit in a region like California’s East Bay -- where our interests’ lie? Thus far, of course, the dissertation’s argument has been a fairly expansive one. The argument has been twofold: that debates over rights ought to matter for those interested in the geography of urban transportation; and secondly, that debates over urban mass transit policy ought to be central to the fight for the “right to the city.” This chapter will do nothing to distract from this argument, but it begins with a far more humble premise -- namely, that without some historical context any broader theoretical argument about rights and public transit will make little sense. At the heart of the chapter are thus two fairly simple arguments: first, that the history of transit matters, and second, that much of what constitutes that history in California’s East Bay has been the history of efforts to solve the urban transportation problems of the postwar period. After offering a brief history of the “urban transportation problem,” I turn to examine both federal and local efforts to solve it. At the national level, the focus will be on the passage and the content of the Urban Mass Transit Act of 1964. In the East Bay, the focus will be on the formation of the Alameda and Contra Costa Transit District (AC Transit) and the formation of Bay Area Rapid Transit District ( BART). Lastly, the chapter will draw on some of David Harvey’s writing in urban planning to make an even broader argument

about the place of utopian thinking in transit planning, and the role of rights in complicating such plans.

### **The Idea of the Urban Transportation Problem, a brief history**

References to “the urban transportation problem” appear in almost every decade of the 20<sup>th</sup> century. Before World War I, such references not only found expression in the writings of transit engineers like Arnold (1911), but in screaming weekly editorials documenting the frustrations of urban residents forced to share the street with “lumbering drays, reeking dirt carts, grimy coal wagons and pounding hoofs and grinding tires” (Zimmerman 1904). Particularly in the decades after World War I, references to the urban transportation problem became the notable touchstone of traction experts and public intellectuals like Delos Franklin Wilcox. For Wilcox and others, the urban transportation problem was fundamentally a “traction problem” -- referring primarily to the financial struggles of the street railway industry.<sup>30</sup> Having already written a great deal on urban politics, between 1916 and 1928 Wilcox published a stream of volumes and reports detailing the financial plight of traction companies in Chicago, New York, Denver, Los Angeles, and Bethlehem, Pennsylvania. Perhaps his most comprehensive treatment of the topic appears in his 1921 tome *Analysis of the Electric Railway Problem*. Of course, in 1921, the traction problem would have appeared especially dire -- by the year’s end almost a fifth (17.1%) of all electric street railway companies in the U.S. were in receivership (New Publication 1921; American Electric 1932). For Wilcox, the roots of the traction problem were plain to see. The core

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<sup>30</sup> Alongside more prominent scholars like Wilcox, one would also encounter less well-known scholars like Victor Topping. After completing a Master’s thesis (1923) at the University of Toronto entitled *The Urban Transportation Problem*, Victor Topping moved to Yale on the Strathcona Memorial Fellowship in Transportation where he worked as a primary investigator on a commissioned report on the university’s role in the study of transportation. The report, with coauthor James Dempsey, was published in 1926 under the title: *Transportation: A Survey of Current Methods of Study and Instruction and of Research and Experimentation* (Varied Career 1937). Topping’s *The Urban Transportation Problem* treated the problem in much the same way as Wilcox, as a traction problem and one of the economic structure of the industry.

problems were overcapitalization, a postwar spike in labor costs, increased competition from private automobiles, and a public unwilling to renounce its right to a fixed fare of 5 cents (1921, xvi).<sup>31</sup>

In 1932, and at the behest of the U.S. Chamber of Commerce, the American Street Railway Association (ASRA) published a national study on the economic conditions of the street railway industry. In their aptly titled report, *The Urban Transportation Problem*, the ASRA defined “the urban transportation problem” in much the same way as Wilcox had: as a traction problem rooted in declining profitability and increased costs. Of course, by 1932 many traction companies were already facing the creeping impact of an economic depression. As urban residents took fewer work and leisure trips, the decade of the Great Depression saw a 25% decline in national transit ridership (APTA 2001, Taylor and Fink 2002). By 1932, many traction companies not only found it difficult to pay dividends to their investors, but in the face of constrained financial markets, they also found it increasingly impossible to finance the expansions they would need to compete with the ever-growing popularity of the private automobile. For lobbyist and pro transit groups like the ASRA, reports such as *The Urban Transportation Problem* were calls to action. The point was not only to document the persistent travails of traction companies, but to highlight what their continued plight might cost society at large. In its 1932 report, the ASRA wrote:

Failure to [...] reestablish the credit and improve the facilities of street railways will result in their ultimate decadence. It needs little more than simple calculation on the basis

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<sup>31</sup> Up to his death in 1928, Wilcox would be a staunch proponent of municipal ownership. The final solution to the street railway problem, he argued, “lies in the full recognition of public responsibility for local transportation and in the acceptance by the community of the primary obligation of self-help in the performance of this all-important community service” (1921, xi).

of known facts to realize the extent of the load that would in that eventuality be thrown upon our already overloaded street systems and the magnitude of the physical and economic problems that would face every city, even if we are willing for the moment to assume that everyone could afford to provide automobiles for his own transportation (American Electric 1932, 16).

In 1932, the urban transportation problem remained a traction problem, albeit further complicated by a global economic slowdown.

In 1942, urban planners Tom Cooke and John Commons published an essay entitled “Our Changing Transportation Problem.” With World War II well underway, Cook and Commons defined the urban transportation problem in terms that might have seemed wholly foreign to the likes of Wilcox or the ASRA. For Cooke and Commons, the urban transportation problem was one of rationing. The problem was one of finding new ways to curtail the use of automobiles in order to save “rubber, gasoline and electricity” (1942, 4). In 1942, and according to Cooke and Commons, the solution to the urban transportation problem meant promoting carpooling, staggering work hours and relocating workers to houses nearer to transit.<sup>32</sup> The urban transportation problem was not one of declining patronage or unruly jitney competition -- in fact national transit ridership reached its highest levels during World War II -- the problem was one of winning the war (Wiener 2008).

Following World War II, references to the so-called urban transportation problem became ubiquitous. Such references appeared in the work of engineers like Harmer E. Davis (1957), economists like John Meyer, John Kain, and Henry Wohl (1965), and urban planners like

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<sup>32</sup> Interestingly, many of the solutions aimed at curtailing war-time waste have become central parts of more modern initiatives like Transit Oriented Development and ride-sharing programs.

Wilfred Owen (1956). In his 1957 essay “Observations on the Urban Transportation Problem,” Harmer E. Davis -- already the acting director of Berkeley’s Transportation and Traffic Engineering Institute -- defined the urban transportation problem against the backdrop of increasing congestion, an explosion in private automobile ownership, city center decline, a booming postwar economy, and a dearth of data and tools by which to address new transportation needs. Only two years earlier, and in its report “Getting to the Heart of the Urban Transportation Problem,” the National Committee on Urban Transportation (1955) made many of the same observations. In the postwar years, references to the urban transportation problem even appeared in debates between lawyers. In 1950, the “urban transportation problem” became the explicit focus of the American Bar Association when it convened a symposium on “The Pressing Problems of Urban Traffic Congestion.” In the published proceedings, law scholars Jefferson Fordham (1950), James L. Beebe (1950), and Wilbur Smith (1950) pointed to the necessarily legal challenges of addressing urban congestion. In his 1975 essay “The Urban Transportation Problem” legal scholar Gilbert Verbit would argue much the same thing -- that the urban transportation problem was necessarily a problem requiring legal expertise and rooted in legal debate.

The urban transportation problem has meant different things at different times and has often reflected the particular preoccupations of the moment. At the turn of the century, the urban transportation problem was a “traction problem” and referred largely to the financial struggles of street railway companies. In the 1930s, the urban transportation problem was both a traction problem and a problem inextricably connected to the broader challenges of the industrial depression (American Electric 1934). In the 1940s, the urban transportation problem suddenly became one of war-time rationing and of a constrained war-time economy (Cooke and Commons

1942). In the postwar period, commentary on the urban transportation problem was no different. As in previous decades, it came to reflect new preoccupations and new concerns. These included a preoccupation with city center disinvestment, urban sprawl, inner city poverty, and the decline and bankruptcy of many transit agencies.<sup>33</sup> Of course, debates over the urban transportation problem have continued to reflect new preoccupations -- whether these are environmental or budgetary. Nevertheless, the working assumption of this chapter is that much of what defines contemporary debates over urban transportation, and especially debates over urban mass transit in places like the East Bay, continues to bear the marks of the postwar urban transportation problem -- which was one of congestion, suburban sprawl, central city decline, and increasingly poor transit service. Since these problems first emerged, they have not gone away and they continue to dominate debates over urban transportation policy.

### **The Postwar Transit Problem**

Following World War II, American cities confronted a new set of realities (Vance 1990, 54). These realities included: the rapid growth of private automobile ownership, the financial collapse of private transit agencies,<sup>34</sup> and the centrifugal movement of people and capital out of the central city -- an expansion aided and abetted by massive state and federal investments in expressways and housing subsidies.<sup>35</sup> In the postwar period, the urban transportation problem became shorthand for the range of challenges associated with this new city. These challenges not

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<sup>33</sup> Following riots in Watts, Robert Lewis' (1971) *Race and the Urban Transportation Problem*, and John F. Kain's (1968) work on the spatial mismatch, understandably came to define the urban transportation problem in terms of racial segregation.

<sup>34</sup> Between 1956 and 1962 alone, it was reported that "more than 350 transit companies were sold or abandoned" (Trussell 1963, 10)

<sup>35</sup> Between 1945 and 1950 alone the number of private automobile registrations increased at a rate of 9.44% annually. Not only were families purchasing and registering more cars, but they were driving them farther and more frequently. Between 1947 and 1950 annual vehicle miles by passenger automobiles increased by 21% (*American Highways* 1776-1976, 165).

only included longer peak hour commute times, increased congestion, and lack of parking, but they also included deepening social fissures. Following the riots in Watts, increasing attention was focused on the role of urban transportation policy in abetting problems of racial segregation, unemployment, and “fiscally squeezed” central cities (Governor’s Commission 1965; Kain 1968). Where the automobile and expressways were opening up new suburban tracts and new opportunities for an emergent middle class, an equally large segment of the population was being left behind. As Wilfred Owen (1956, 20) wrote, and from the perspective of the new middle-class, at the heart of the urban transportation problem was a central irony: “transportation has created many of the conditions that people strive to escape, but it has also provided a means of escaping them and therefore a means of avoiding solutions.” The urban transportation problem that emerged in the postwar was thus a complicated one. The problem reflected not only the failure of the immediate postwar expressway boom to stem congestion, but also the costly externalities that such expansions caused.

In California’s East Bay many of these trends were apparent. With the conclusion of World War II, the urban transportation problem in the East Bay was one of declining transit patronage, increased automobile ownership, and unbearable congestion. Of course, in the decades leading up to World War II, the East Bay’s urban transportation problems would have been no less familiar. For much of the first half of the 20<sup>th</sup> century, the urban transportation problem in the East Bay, as in many places, had been a “traction problem”-- rooted in the financial struggles of the local street railway industry. In his definitive history of the East Bay’s street railway system, Harre Demoro (1985) points out that the East Bay’s “traction problems” emerged quite early. As was the case in many cities, the first street railway lines in the East Bay appeared in the 1860s --

these were piecemeal affairs, operated by horse-cars and with little coordination (1985, 12).<sup>36</sup> By 1907, however, and owing much to the enterprising efforts of the industrialist and real estate developer Francis “Borax” Smith, the East Bay developed a quite integrated and extensive street railway system that stretched from El Cerrito in the north, to East Oakland in the south. Smith’s most famous contribution was perhaps the 1903 completion of the multimodal “Key Route” -- an electric streetcar and ferry line that could carry passengers from downtown Berkeley to the San Francisco Navy Pier in a record 35 minutes (1985, 15).<sup>37</sup> While the “Key System,” was popular, by 1910 it was already showing signs of financial instability and over-capitalization. In 1913, Smith signed over control of the system to his creditors. In the years following World War I, rising inflation only further ate away at the Key System’s revenues. Despite its high ridership in the 1920s, the plague of overcapitalization continued unabated. In the 1930s, the system’s financial situation was so dire that it was sold in foreclosure and reorganized as a set of independent traction companies under a holding company based in Delaware. In the same decade, the Key System, organized as such, faced the challenges of both depression era ridership losses and older, deteriorating rolling stock. In many ways, World War II was a godsend. In the context of gasoline rationing, and a war-time economy, transit ridership on the Key System reached its highest recorded level in 1945 -- exceeding the previous 1926 high by 33% (1985, 23). During World War II, the urban transportation problem in the East Bay, as was true in every city, was one of war-time rationing and of winning the war (Demoro 1985).

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<sup>36</sup> Mass transit officially began in the East Bay on October 30, 1869 when the first horse-car ran along Broadway in Oakland. The first electric streetcar appeared in the East Bay in 1891 -- connecting the cities of Oakland and Berkeley (AC Transit History 1977, 7; Demoro 1985, 12).

<sup>37</sup> Before the construction of the “Key Route,” the same trip to San Francisco took over an hour and relied on the steam-powered trains and ferries of the Southern Pacific. To achieve such time savings, the Key Route’s main innovation was the use of electric streetcars, and the construction of a 3.6 mile ferry pier into the San Francisco Bay.

The postwar urban transportation problem in the East Bay came with new and unique challenges outlined in a March 1950 report entitled *The Transit Problem in the East Bay*. Authored by civil engineer John G. Marr and by the staff of the Oakland City Council Planning Commission, the report was submitted to the Mayors and Managers of eleven East Bay cities: Albany, Alameda, Berkeley, Emeryville, El Cerrito, Hayward, Oakland, Piedmont, Richmond, San Leandro, and San Pablo. Its message was clear: there existed an increasingly acute urban transportation problem in the East Bay and no single city would be able to solve it alone. The report's summary of the problem was this:

At present a large and steadily increasing proportion of the East Bay population travels by automobile; a smaller and consistently decreasing proportion travels by mass transportation. Apparently, the public is convinced the automobile offers a more convenient means of getting from one place to another than the transit system does. However, the more people use the automobile, the less effective it becomes. Streets, highways, freeways, and bridges become increasingly congested, and parking spaces are at a premium. New traffic lanes and parking areas have been provided at a heavy cost to the city, county, state and nation, and these facilities have only attracted more motor traffic (Oakland City Planning Commission 1950, 7).

At the time of the report's publication, the Key System was still the East Bay's primary transit provider. Of course, much had changed since the turn of the century. By 1950, the system had largely shifted away from streetcars and instead relied on a fleet of over 600 diesel buses.<sup>38</sup> By 1950, the Key System had been purchased by the National City Lines and was now a subsidiary

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<sup>38</sup> The Key System's electric streetcar service ended in 1948. The Key System continued to operate trains across the San Francisco Bay Bridge, which had been constructed in 1937, but the street railways were no longer in operation (AC Transit History 1977, 7).

company. While the overall oblong shape of its service area remained the same, by 1950 the Key System had expanded both northward and southward. Hemmed in on one side by the San Francisco Bay and on the other by the Contra Costa Hills, the Key System now operated in a region two to four miles wide and 24 miles long. Major trunk lines like the 57 and the 72 ran north-south routes, while smaller feeder lines, like the 21, ran shorter east-west routes. Like many transit agencies, the years following World War II were difficult. Between 1945 and 1950 patronage dropped 20% on local East Bay Routes, and it dropped 33% on transbay lines. With 98% of the system's revenue coming from fares, these ridership losses were hard felt (1950, 23). In addition, efforts to replace lost revenue through increased fares -- which the Key System enacted three times between 1945 and 1950-- only spurred further declines in ridership (1950, 16). With increasing automobile usage, declining patronage, and increasing labor costs following the war's end, the future of the Key System looked bleak. As the report noted, the Key System was failing on any number of metrics:

By most standards the Key System is not operating successfully in the Bay Area. From the consumer's point of view, the service leaves much to be desired. From the cities' point of view, little relief from the problems of traffic congestion and parking is in sight. And from the company's point of view, the rate of return on the stock-holders investment is negligible (1950, 18).

According to the Oakland Planning Commission, part of the problem was simply that of changing consumer preferences. By 1950, it was becoming clear that the culture of urban transportation had changed. Equally apparent was the wholesale inability of transit agencies like the Key System to adapt. Reflecting on the Key System's declining fortunes, the Oakland Planning Commission's diagnosis could not have been any more obvious:

The industry is feeling the results of a nation-wide attitude toward mass transit which has been developing ever since the automobile became available to people of small income. Transit is regarded as the poor man's transportation, an inferior service to be avoided as soon as one can afford a car. The national plane of living has risen to a point where all except those in the lowest income group can own an automobile. Until the advantages of using it are clearly out-weighed by the advantages of riding the transit system, the owner will continue to use his car (1950,19).

The question in the East Bay, as elsewhere, was: what ought to be done? If the nature of the problem was self-evident, what was the solution?

### **The Transit Solution**

For many at the national level, and for many others in places like the East Bay, the solution to the postwar urban transportation problem was all but obvious: public investment in urban mass transit. At the Federal level this took the clearest form in the passage of the Urban Mass Transit Act of 1964. Signed into law by Lyndon B. Johnson on July 9 and heralded as the "legislatively determined solution to the urban transportation problem" the UMTA was the first real effort to provide federal assistance to support and develop urban mass transportation (Verbit 1975, Wiener 2008, 40). In 1963, John F. Kennedy had made transit a central talking point in his State of the Union Address. Transit, he stated, was "as essential a community service as hospitals and highways." If local transit was to survive and relieve the congestion of cities, he added, "it needed federal stimulation and assistance" (Kennedy 1963). The UMTA, in many ways, was no more than an effort to put these words into action. If Kennedy believed that transit was as essential as highways or hospitals, the UMTA was predicated on the corollary argument: namely,

that the deterioration of mass transportation facilities in American cities would not only exacerbate problems of congestion, but would also further jeopardize the general economic health of cities.

The UMTA was based on three key assumptions:

- 1) That the predominant part of the nation's population is located in its rapidly expanding metropolitan and other urban areas which generally cross the boundary lines of local jurisdiction and often extend into two or more states;
- 2) That the welfare vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway and other federally aided programs are being jeopardized by the deterioration or inadequate provision of urban transportation facilities and services, the intensification of traffic congestion, the lack of coordinated transportation facilities and services, and other development planning on a comprehensive and continuing basis; and
- 3) That federal financial assistance for the development of efficient and coordinated mass transportation systems is essential to the solution of these urban problems (US Department of Transportation 1976, 1).

For the law's architects, federal investment in urban mass transit not only held out the promise of revitalizing a failing industry, but also of offering an effective alternative to the private automobile (Hilton 1974, 4). At the heart of the UMTA were two programs: a program of capital grants and loans aimed at helping local cities in the "acquisition, construction, reconstruction, and improvement of facilities," and a research and development program aimed at undertaking research, development, and demonstration projects that "will assist in the reduction of urban transportation need, the improvement of mass transportation services, or the contribution of such service toward meeting total urban transportation needs at minimum cost" (US Department of

Transportation 1976, 15). Of the two programs, the UMTA's capital grant program was the largest. It committed the federal government to covering two-thirds of the net cost of approved capital improvements for local transit services (Mass transit aids, 1964). The capital program included bus purchases, a program to purchase new rolling stock, and money to convert existing private systems to public ownership -- a process called "stabilization." From 1965 to 1973, the UMTA stabilization program resulted in the takeover of private systems in 49 cities (Hilton 1974, 53). The research and development program, which had actually begun as part of the 1961 Housing Act of three years prior, was a much smaller program, but became a key enabler of any number of demonstration projects around the country. Although the UMTA had only been slated to provide a mere \$350 million over three years, amendments to the UMTA in 1966, 1968, and 1969 increased the authorization by \$790 million -- amounting to a total of \$1.164 billion over six years. For many proponents of transit this was still insufficient, and in 1970 these proponents successfully lobbied for the passage of the Urban Mass Transit and Assistance Act of 1970 -- an act that authorized \$3.1 billion over five years and promised an additional \$10 billion over 12 years (Skidmore, Owings and Merrill 1976, 12).

The 1964 UMTA, of course, was more than just a grant program -- it was also something of a mirror. In many ways, it reflected a new and emerging political consensus committed to rethinking the scope and role of the federal government. This new consensus believed that the gains and the prosperity of the postwar period should be distributed in ways that benefited segments of the society being left behind. More importantly, this new consensus believed that the federal government had a role in assuring that states and localities followed through on this goal. Buoyed by the stunning rout of presidential hopeful Barry Goldwater in 1964, this new consensus not only underpinned Lyndon B. Johnson's War on Poverty and his Great Society

programs, but also a bevy of legislation aimed at securing the civil rights of racial minorities and strengthening the social safety net. This new consensus was also evident in the UMTA. With the bankruptcy of many private transit agencies imminent, the UMTA not only reflected a fear of more congestion, but also the need “to provide mobility to those segments of the population which may not command the direct use of motor vehicles” (Hilton 1974, 52). Without transit, this population would only be further cut off from the social and economic opportunities of the postwar society. For many UMTA advocates, the importance of public transit investments thus extended far beyond mitigating congestion. Such investments also promised to mitigate other social ills as well. Nowhere is this more apparent than in the UMTA’s allocation of demonstration grants. Notably, one of the first demonstration projects funded under the UMTA was based in the Los Angeles neighborhood of Watts. The plan was called “Project Opportunity” (Semple 1967). With the riots of 1965 still fresh, and with a number of commentators laying some of the blame on poor transit, the UMTA’s Project Opportunity created a new bus line along Century Boulevard. The bus line linked Watts’ residents with employment centers in the city’s Northeast industrial sector as well as to the Saint Francis Hospital – since, neighborhood also lacked any health infrastructure (Semple 1967). If Project Opportunity was any indication, by 1964 and through much of the 1960s, to talk about the urban transportation problem was not only to talk about declines in transit ridership, mounting congestion, or the financial straits of agencies like the Key System, but it was also to talk about the social ills that these realities reflected. Within a set of broader and increasingly dominant narratives about cities, poverty, civil rights, and urban development, the UMTA was predicated on the belief that federal support for transit was a necessary part of mitigating a range of problems -- whether those included the centrifugal expansion of cities, or urban racial violence.



Image 1: *Time edge for public transit* [image of AC Transit's Transbay service]. Retrieved from: *Transit Times: AC Transit*. 12(10): 3.

### **The Transit Solution in the East Bay**

In the East Bay, the idea that public investment in transit might offer a solution to the postwar urban transportation problem found its earliest expression in the same report reviewed earlier: *The Transit Problem in the East Bay*. As early as 1950, the staff of the Oakland City Planning Commission argued that the urban transportation problem in the East Bay required public investment -- more specifically, the report argued for public ownership of East Bay Transit. In a nine-point summary, the commission's logic is clearly apparent:

- 1) The East Bay's transportation problem is fundamentally one of moving people, and in the long run it can only be solved by providing an effective transit system.
- 2) Computed on a per-person-served basis, mass transit is by far the cheapest means of solving the problem.

- 3) The transit service now being provided by the Key System is inadequate to meet the needs of the East Bay Metropolitan area.
- 4) Materially improved transit service could attract sufficient patronage to significantly reduce traffic congestion and the demand for parking space.
- 5) Key System is not and probably will not be, in a position to finance the improvements necessary to develop an effective transit system.
- 6) Because of the impact of the automobile on the transit industry, it is unlikely that private capital could be induced to underwrite the development of an effective system.
- 7) If an effective transit system is to be developed, some form of public ownership may be necessary.
- 8) Of the various types of public agencies, the metropolitan area-wide special purpose district appears best suited to provide transit service in the East Bay.
- 9) Before a transit district could be established, basic decisions would have to be made regarding enabling legislation, the scope of the district's authority, its territorial extent, and its relationship to the rest of the Bay Region (Oakland City Planning Commission 1950, 5).

The report's argument was clear: transit was the solution to the urban transportation problem but, as a solution, only publicly owned transit was feasible. Five years after the report, and in response to a transit strike that left the East Bay immobile for 76 days, Goodwin Knight, the Governor of California, signed enabling legislation (SB987 and AB 1762) that allowed the establishment of a publicly owned transit system in the East Bay -- something that had otherwise been prohibited. In 1956 voters in Alameda and Contra Costa Counties overwhelmingly voted to establish the Alameda and Contra Costa Transit District (AC Transit) and to replace the Key System. In 1959 these same voters approved a \$16.9 million bond measure allowing the newly

formed district to purchase equipment from the now defunct Key System Transit Lines.<sup>39</sup> As was spelled out in the original 1956 ballot measure -- which had been called "Measure A"-- the AC Transit District was to be governed much like a school board and with the power to levy taxes on real property within the two-county district. With a board of seven elected representatives -- five area representatives and two at-large members -- AC Transit began service on October 1, 1960. If the public takeover of the Key System in the East Bay seemed a laudable attempt at securing the continuation of urban mass transit in the East Bay, the creation of the Bay Area Rapid Transit District (BART) had even greater aspirations (Hook 2011).

As early as 1946, military planners in the East Bay had recommended strengthening the link between San Francisco and the East Bay metropolitan area. Given the peculiar geography of the Bay Area, defined as it is by narrow transportation corridors and bridges, problems of congestion became particularly acute in the postwar period -- especially, across the San Francisco Bay Bridge. In 1957, the state legislature established the Bay Area Rapid Transit District and tasked it with developing a regional transportation plan for the nine-county metropolitan area that might address transbay commuting. Between 1957 and 1962, a plan was drafted for a grade-separated elevated rail system connecting San Francisco and the East Bay through an underground tunnel below the San Francisco Bay. In 1962, two years after AC Transit began service, and three years

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<sup>39</sup> The actual history of the public takeover of the Key System Transit Lines is, in some ways, a bit more complicated. Following the passage of "Measure A" in 1956, the cities of Richmond and San Pablo immediately sued to secede from the district -- citing irregularities in the vote. The suit was successful, but ultimately meaningless. In 1960, and after it was all but certain that AC Transit would begin service, leaders in Richmond and San Pablo got cold feet -- fearing that they'd be left without any transit service at all. In June, five months before the first day of AC Transit service, ballot measures to join the district were approved by voters in both cities (Hook 2011). Similar problems emerged with the District's early attempt at a bond measure. The ultimately successful passage of a bond measure in 1959 only came after a failed attempt the year before. Specifically, in 1958 the district's effort to pass a \$16.9 million bond measure failed to get the required two-third's majority. Many of the dissenting votes came from the more rural areas of central and western Contra Costa County. In the following year, a similar bond issue was put to voters but this time it excluded those more rural districts. The \$16.5 million bond passed with a clear majority -- allowing the District to purchase the necessary rolling stock to start service the following year. The areas excluded from the district--which included much of Central and Western Contra Costa County -- would be served later by WestCat Transit (Hook 2011; East Bay Transit Bond 1959).

after the famous highway revolt in San Francisco,<sup>40</sup> voters in San Francisco, Alameda, and Contra Costa counties voted to issue a \$792 million bond for BART's construction. BART would be the largest single public works project undertaken in the United States by the local citizenry (Stokes 1973, 213). The UMTA, for its part, committed \$304 million to BART -- the largest sum the Federal Government had ever directed to a single transit project (Skidmore, Owings, and Merrill 1976, ii). Both the AC Transit District and BART reflected a widespread hope that public investment in transit might reverse trends in automobile ownership and get people back into transit. In a brochure produced to inaugurate the start of AC Transit service in 1960, *East Bay Transit on the Move: Meet your new Chauffeur*, the district advertised itself in no uncertain terms. Riders in the East Bay would enjoy: 562 air conditioned "Transit Liners," increased frequency of service, 55 miles of new and local service, and 65 miles of intercity rapid service (Transit on the Move 1960, 13). With better and faster buses, AC Transit hoped to position itself as a real alternative to the automobile in the East Bay. The language around BART was no less ambitious. Not only did BART promise to pull riders from cars, but it promised to reverse the increasingly acute problem of urban disinvestment in East Bay cities like Oakland. By providing a rapid connection between downtown Oakland and East Bay cities like Berkeley, Richmond, and San Leandro, it was hoped that BART could resurrect Oakland's city center. The implicit optimism of projects like BART or AC Transit was not atypical. The same optimism reappeared in later efforts leading up to the construction of the Washington Metro and transit investments in Atlanta and Los Angeles. It was the same optimism that, at the federal level, reappeared in the UMTA of 1970 and 1978. Whether it was the public takeover of the Key

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<sup>40</sup> In 1959 the San Francisco Board of Supervisors famously blocked seven of nine freeways scheduled for construction in the city after public outcry. The decision not only marked a stunning defeat for the California highway lobby but also spoke to the resolve of local organizers determined to protect their quality of life (Issel 1999; Mohl 2004, 678).

System Transit Lines, the development of BART, or the passage of the UMTA, the assumption was the same: that federal largesse and public investment in transit could both spark a transit renaissance and fundamentally solve the urban transportation problems of the postwar era.

### **The Detractors**

Federal transit subsidies and capital assistance emerged in the 1960s as part of a laudable attempt to address the transportation challenges and inefficiencies of the postwar city. Of course, these initiatives were not without their critics. Perhaps most notable, were the economists John Meyer, John Kain, and Martin Wohl. In their 1965 book, *The Urban Transportation Problem*, Meyer, Kain, and Wohl offered an unrelenting critique of the assumptions undergirding the UMTA.<sup>41</sup> Despite the zeal for change, there was scant evidence, they argued, that federal investment in transit could do what it promised -- whether those promises included mitigating peak-hour load commuting, stemming urban decentralization, or relieving urban congestion. Similarly dubious, they argued, were claims that new systems like AC Transit or costly rail projects like BART could spur a transit renaissance or do anything to reverse the out migration of people and industry from central city to outer suburbs.<sup>42</sup> For Meyer, Kain, and Wohl (1965), the urban transportation problem was simply too complex a problem for federal largesse to remedy. While acknowledging many of the social and political arguments in favor of federal involvement in

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<sup>41</sup> Meyer, Kain, and Wohl took up the challenge of both listing the assumptions undergirding the UMTA and testing them. The assumptions were: that urban transportation was in a mess which was steadily worsening; that the decline in city populations and densities is arguably attributable to the lack of good or at least up-to-date mass transit facilities; that rail transit is probably cheaper than highway mass transit and certainly cheaper than private auto travel; that people will ride transit if it is available at a decent level of service and a reasonable price, and lastly that the type of urban transportation available is a very important factor in shaping the aesthetic character and form of a city (1965, 4).

<sup>42</sup> Meyer, Kain, and Wohl questioned transit's ability to lure people away from their automobiles -- citing studies that showed that not even cash transfers were enough to entice people out of their cars. While there were certainly political arguments for federal transit subsidies, they argued that the economic argument for such subsidies were far from compelling.

transit, Meyer, Kain, and Wohl's argument was simple: that there were other solutions. Instead of bailing out an industry with declining revenues and ever higher costs, Meyer, Kain, and Wohl advocated for "market based" solutions -- like lowering licensing requirements for taxi services, enacting congestion pricing schemes, or the outright privatization of public transit.

In his 1974 book *Federal Transit Subsidies: The Urban Mass Transportation Assistance Program*, policy analyst George Hilton of the American Enterprise Institute was similarly critical of the UMTA. This time however, the critique was based on the legislation's own record. Hilton noted that if the goal of the UMTA had been to revive transit ridership and spawn a transit renaissance, then by most accounts, it had failed. Between 1964, when the program began, and 1972, Hilton noted national transit ridership had fallen from 8 billion to 5.3 billion riders per year (1974, 97). Despite massive outlays in UMTA capital grants for new buses and new urban rail systems, in most places the financial plight of transit agencies continued unabated. In 1965, he noted, transit agencies recorded a net deficit of \$11 million; in 1972 that deficit had grown to \$513 million (1974, 98). For libertarian thinkers like Hilton, the UMTA's record for demonstration projects was even more objectionable. Some of these objections were shared by the administrators of the UMTA itself. In 1971, Richard Kelley, Assistant Director of the Urban Mass Transportation Administration, sent a report to Director Carlos Villareal assessing the UMTA's demonstration grant program. Despite the initial hopes, federal investment in such programs, Kelley argued, was not having the impact they had hoped. In one particularly scathing indictment of the demonstration grants, Kelley gave the example of a program in Boston aimed at improving the employment outcomes of the city's poor. The program's sponsor noted that:

Despite the glowing verbalizations hailing the start of the Employment Express experiment, actual practice showed glaring discrepancies in the ability or, perhaps, even

the willingness of employers to recruit, to alter fixed shift times, to admit that their interest was not in low skilled employees.

Then, too, it was discovered that the very community groups who fought fiercely for bus service from their neighborhoods to job opportunities distant from the core city had exaggerated their community's drive for such employment, had grossly inflated the number of eager job seekers, and, once the service began had shunted their enthusiasm to other community problems (Kelley 1972).

For Meyer, Kain, and Wohl (1965), as well as for policy analysts like George Hilton, the assumptions undergirding the UMTA were flawed from the start. Proponents of the UMTA overestimated the efficacy of federal largesse, and misjudged the effectiveness of public transit alone to address the urban transportation problems of the postwar years. As Hilton argued, the problem was not only that the UMTA had accepted "the monopolistic linear organization of transit" but that it also failed to explore more market-based solutions -- whether those included deregulating taxi licensing or getting tough with transit labor unions (Hilton 1974, 111).

Where both AC Transit and BART emerged to embody the same optimism that undergirded the UMTA, many of the same criticisms of transit policy in the 1960s and 1970s could be applied in the East Bay. Where the Key System had been defined by poor service, labor strife, fare hikes, and derelict equipment, AC Transit was designed to be just the opposite. With 572 new air-conditioned buses, with expanded service, and with public support through the ballot box, the hope was that AC Transit might finally offer East Bay residents an alternative to the car. According to AC Transit's Board of Directors, not only would East Bay residents enjoy new buses, but the new system would be financially self sufficient. The financial instability that had

defined the Key System would be a thing of the past. As they argued in 1960, the “district’s program should produce sufficient revenue to meet operating expenses [...] without the need of additional bond or tax support” (East Bay Transit on the Move 1960, 15). Similarly, the AC Transit district promised to have better relations with its workers. No longer would East Bay residents suffer strikes like they had in 1953 -- a strike that left the region immobile for 76 days. In 1960, it was argued, AC Transit would represent a new era in transit and a renaissance in transit ridership.

But by the 1970s, many of these promises seemed unattainable. The labor strife that had prompted so much confusion in 1953 continued unabated. AC Transit suffered labor strikes in 1970, 1974, 1976, and 1977 (AC Transit History 1977, 9). Where in 1959 transit boosters had assured voters of AC Transit’s financial self sufficiency, by 1973 this was clearly not the case. That year AC Transit faced a record deficit of \$15.6 million. This deficit came even after the AC Transit Board of Directors had voted to raise property taxes in the district in 1970 and 1971 (Demoro 1973; Another well laid plan 1971). Already by the early 1970s, it was apparent that AC Transit’s budget could not rely on fares alone and that the claim and promise of a self-sufficient transit system had been dubious. In 1973, in fact, AC Transit fares only accounted for 55% of total operating costs. By 1977, that proportion dropped to 33% (see Appendix C: Graph 2). Voters who had approved the system in 1956 increasingly faced the choice of higher property taxes, reduced service, or higher fares. In sum, by the mid 1970s, AC Transit was not only running a consistent deficit, but also it had done nothing to reverse many of the broader challenges it had been charged to solve. The growth of private automobile ownership continued unabated, parking concerns remained intractable, and the urban decentralization of the Bay Area continued apace.

Whether the expectations surrounding AC Transit had been overblown or not, by 1973 it was clear that AC Transit had failed to live up to its billing. It was costing more than expected and the benefits it had promised were immaterial. In some ways, however, AC Transit faced far less criticism than BART. AC Transit, for all its problems, was still vastly better than the Key System had been, and it was faring better than many other transit agencies in the country.<sup>43</sup> The same could not be said about BART. Perhaps because of its size and scope, the criticisms of BART were much more pronounced than those of AC Transit. These criticisms were rooted in the expansive gap between the promise of BART and the ultimate reality. Where planners had hoped BART would lead to reinvestment in Oakland's city center, it actually did just the opposite, as potential shoppers from East Bay cities like Berkeley, Richmond, and San Leandro now found it even easier to reach San Francisco -- bypassing Oakland altogether. The travel time advantages gained by commuters traveling via BART were largely lost as a result of BART's widely spaced stations -- ironically, it was this spacing that allowed for BART's high average speeds. Rather than high-density commercial and housing developments, BART's suburban stations became fertile ground for low density car parks and low density housing stock. Measured by its effect on stemming highway traffic, on attracting commuters from their cars, or on expanding investment in urban cores, BART was a utter failure. More significantly, as the nation's first large-scale postwar transit system of its kind, BART's failure seemed to portend a quick end to the transit renaissance (Weber 1976).

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<sup>43</sup> Between 1960 and 1977, AC Transit was one of the more successful transit agencies in the county. Annual mileage in 1960 was only 19,713,149; by 1977 annual mileage was 30,261,027 (AC Transit History 1977, 8). Between 1960 and 1969 AC Transit ridership increased by 15.2%; during the same period, national transit ridership declined by 15.6% (AC Transit History 1970, 4; Demoro 1969). Following the passage of Proposition 13 in 1978, however, AC Transit's fortunes declined considerably.

By the 1980s the backlash against federal legislation like the UMTA and mega public investments like BART was in full swing. The political mood of the country had shifted and a new political consensus was forming around the ideas of deregulation, privatization, and smaller government. Following the Airline Deregulation Act of 1979, the Motor Carrier Act and the Staggar Rail Deregulation Act of 1980, and Reagan's famous attack on the air traffic controllers' union in 1981, an increasing number of scholars began arguing for deregulation in urban mass transit as well. Projects like BART, and bus agencies like AC Transit, were increasingly seen as unnecessary drains on the public coffer. As transit planner Robert Cervero (1985) argued in 1985 the solution was deregulation. The same deregulatory shifts seen in the airline and trucking industry, Cervero suggested, ought to be applied to the urban transportation sector. For Cervero, the case against government regulation was clear. Far from maintaining public safety, or protecting common carriers from excessive competition, regulations on taxi licensing, regulations on jitneys and livery cabs, and regulations that restricted dial-a-ride services, did very little to serve the actual needs of urban commuters. Instead, such regulations prevented the emergence of transportation alternatives and even seemed to suffocate much needed experimentation in the urban transportation industry.

In contrast to the ambitions of the UMTA or projects like BART, the 1980s saw the beginning of something else: federal retrenchment in social welfare and a creeping cynicism about government's ability to solve social problems -- be they of poverty or transportation.<sup>44</sup> This general deregulatory shift was even seen in places like the East Bay, a region with a progressive history and tradition of supporting a strong public sector. This shift appeared in the introduction of part-time workers at AC Transit in 1980 as well as in BART's decision in 1989 to subcontract

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<sup>44</sup> In 1981, under the banner of "The New Federalism," the Reagan administration even proposed eliminating federal urban transit operating subsidies all together (Orski 1981; Molotsky 1981).

out its express bus service to the private Laidlaw firm -- a contract that had originally gone to AC Transit (Marshall 1991; David Lyons, Interview, December 1, 2010). In 1986 AC Transit even hosted a conference titled “demystifying privatization” aimed at exploring the possibility of “marketizing” its operation -- something that would have been unheard of in the 1960s or 1970s (District Hosted Conference 1986). In the 1980s -- whether in the East Bay or elsewhere -- the urban transportation problem remained a problem of congestion, sprawl, and inefficiency. What had changed, however, was the belief that federal support for transit offered a solution.

Where the 1980s saw a backlash against federal largesse, the 1990s reflected a more mixed approach to transit policy. Of course, some the libertarianism of the 1980s persisted. Not only did demands for privatization continue to appear in books like Daniel Klein, Adrian Moore and Ninyam Reja’s (1998) *Curb Rights: A Foundation for Free Enterprise*, and Clifford Winston and Chad Shirley’s (1998) *Alternative Route: Toward an Efficient Urban Transportation* but in 1996, a Republican congress finally made good on the Reagan administration’s early threats by eliminating federal transit *operating* subsidies altogether. In other ways, however, the 1990s also saw a return of the transit ambitions of the 1970s -- particularly in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21<sup>st</sup> Century of 1998 (TEA 21).<sup>45</sup> These bills offered considerable funds to new transit demonstration projects and were explicit in their aim to direct money toward efforts to address problems of congestion, urban sprawl, and parking. Coming on the heels of the Americans with Disability

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<sup>45</sup> ISTEA, TEA 21, SAFETEA 21 and MAP were all federal laws authorizing federal highway, safety, transit and other surface transportation programs. ISTEA was the first of this new generation of legislation all of which aimed at emphasizing the intermodal needs of the nation’s transit system. Rather than expanding highways, these laws have focused both on preserving the interstate and national highway system and expanding the remit of the Federal Aid Highway Program. Namely, it opened the program up to new types of investments-- from the construction of pedestrian and bicycle facilities to the acquisition of preservation of historic sites. ISTEA allocated \$156 billion over five years. In 1998, TEA 21 emerged to allocate \$218 billion over an additional five years. TEA 21 saw the inauguration of several unique programs like the Job Access Reverse Commute program (Schweppe 2001)

Act (ADA) and with the introduction of new grant programs like the Congestion Mitigation and Air Quality Act (CMAQ), ISTEA also reflected a newer and broader set of societal concerns and preoccupations. These include concerns over greenhouse gas emissions, energy independence, and access for the disabled.

In the first decade of the 21<sup>st</sup> century, many of the urban transportation problems that first emerged following the close of World War II still remain. The dominance of automobiles continues to choke our highways, parking remains a topic of perpetual argument, and transit lurches from one financial crisis to another. Where federal laws like the UMTA have long run their course, new initiatives have emerged to tackle these same issues. Building upon ISTEA and TEA 21, these include the 2005 Safe, Accountable, Flexible and Efficient Transit Equity Act for the 21 century (SAFETEA 21), as well as the 2012 Moving Ahead for Progress Act in the 21<sup>st</sup> Century (MAP). While such acts continue to dedicate only a relatively small amount to transit, in places like the East Bay they have become essential resources for new experimentation and new initiatives like Transit Oriented Development (TOD), Bus Rapid Transit (BRT), and Complete Streets (see Chapter Six).<sup>46</sup> Based on the success of such initiatives in cities like Curitiba, Brazil, and Copenhagen, Denmark, these new transit initiatives represent a new if underfunded hope for solving the transportation problem that continues to beset American cities.

Whether it has been massive investments like BART, public subsidies of agencies like AC Transit, demands for deregulation and privatization, or new initiatives like TOD, BRT and Complete Streets, the underlying truth remains -- namely that the history of transit policy in the United States and in the East Bay has been the history of the urban transportation problem and,

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<sup>46</sup> A complete street is a street that has been “designed to be safe for drivers, bicyclists, transit vehicles; and pedestrians of all ages and abilities” (Laplante and McCann 2008).

more specifically, the history of efforts to solve it. The following section begins from this same premise but asserts that alongside this reality, there exists an even broader way to understand the history of transit.

### **Utopias of Form and Process**

In 1956, writing in a collection of essays entitled *Metropolis in Ferment*, transportation planner Wilfred Owen made a series of predictions. By 1980, Owen assured readers, technological innovations will revolutionize travel in cities. Where cities were defined by congested highways, slow transit, and deadly car crashes, by 1980, fast and comfortable travel will be the norm. In place of cars or diesel buses, cities will be defined by a rich “economy of large scale multi engine all weather helicopters” (1956, 33). With the introduction of the four-day work week and variable work schedules, urban workers will have little concern for peak-hour congestion. Not only will such workers benefit from urban air travel and a shortened work week, but movable sidewalks and coin operated automobiles will make short-haul trips faster as well. By 1980, urban planners will have long abandoned their love affair with the highway. Instead they will have adopted an appreciation for tree-lined boulevards and scenic parkways. New safety features for automobiles like radar breaks will make accidents a thing of the past. Pedestrian casualties, in short, will share the same fate as polio, leprosy, and small pox -- eradicated and deemed plagues of the past. By 1980, Owen proclaimed: all urban transportation will, by definition, be mass transportation and private individual travel will give way to the steady hands of engineers. Owen’s vision of the future is obviously a utopian one. The urban transportation problem has all but been solved. What, we might ask, does such utopian thinking have to do with anything?

Of course, utopian thinking -- the conscious and purposeful search for alternative ways of living -- has long had a place in urban planning and the social sciences more generally. According to urban theorists and writers like Lewis Mumford (1962, 1), utopian thinking starts from the belief that “life presents many latent unused potentialities that [can and should] be cultivated and brought to perfection” (1962, 1). In the dictums of today, utopian thinking is simply the belief that “another world is possible” or the belief that “another city is possible.” While sometimes derided as escapist or potentially authoritarian, utopianism has been a formidable part of people’s attempts to remake the world in a different way.<sup>47</sup> The history of urban mass transit, in many respects, has been the history of utopian thinking as well. More than anything, it has been the history of what geographer David Harvey has identified as the dialectical utopianism that undergirds much of what accounts for urban planning.

In his book *Spaces of Hope*, Harvey (2000) distinguished between what he calls utopias of spatial form and utopias of social process. Utopias of spatial form, Harvey argues, are those predicated on the reworking of the physical environment. Such utopias are ones in which society’s latent and unused potentialities are cultivated and brought into being through brick and mortar. Such was the utopianism of Ebenezer Howard, of Le Corbusier, of Frank Lloyd Wright, and of Jane Jacobs. Such utopianism expressed itself in the Garden City Movement of the early 20<sup>th</sup> century, in the Bruce Plan for Glasgow in 1945, and in the planning and construction of Pruitt Igoe in Saint Louis in 1956.<sup>48</sup> Whether in the form of New Urbanism, or whether expressed in ideas like Crime Prevention through Environmental Design (CPTED), utopias of

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<sup>47</sup> Far from something anomalous, for many, utopianism and utopian thinking are simply part of being human. As Marx noted as early as 1867, “the difference between the worst of architects and the best of bees is that the architect raises his structure in his imagination before he erects it in reality” (Marx 1967, 178).

<sup>48</sup> The Bruce Plan for Glasgow was an ambitious plan authored by the Glasgow Corporation and its lead engineer Robert Bruce in 1945. The plan proposed razing much of central Glasgow’s older building stock, and replacing it with more modern high-rises. The plan also called for the use of helicopter transport; for the development of green belt ring road and an archipelago of garden city suburbs (Crichton 2004).

form remain a central part of how architects, urban planners, and even geographers view the city. Utopias of social process, on the other hand, refer to an altogether different view of the world. Utopias of social process, according to Harvey, are ones in which society's latent and unused potentialities are cultivated through ideas, precepts and principles alone. Such is the utopianism of Hegel, Adam Smith, and of free market fundamentalism. It is the utopianism of big ideas like democracy and liberalism. Such utopias are not tied to place at all, but instead exhibit a certain universality. By and large, they defy geography all together -- which is, in fact, part of their appeal. Democracy and free markets, as is often argued, mean the same thing whether you are in New York or whether you are in Nairobi. Harvey's larger point, however, is that all utopias are necessarily incomplete. Not only do utopias rely on a selective view of society's future, but they bracket and ignore those elements in society that complicate or undermine the promises they embody. Such bracketing has consequences. Where utopias of spatial form "get perverted from their noble objectives by having to compromise with the social process that they are meant to control," utopias of social process often produce unintended results, by having "to negotiate with spatiality and the geography of place" (Harvey 2000, 179). Harvey's approach to urban planning has a deep resonance with how we understand the history of transit policy since the end of World War II.

Harvey's notion of "utopias of form" finds its corollary in transit planning itself. Much of the transit planning that emerged in the 1960s, of course, started from the assumption that better transit, faster trains, faster buses, and better designed transit systems could vastly improve urban life. Often, the goals of transit investments were not simply to improve service or relieve traffic bottlenecks, but to address the stickier problems of city center decline, urban sprawl, racial segregation, and automobile dominance. These were certainly the goals undergirding the UMTA

and they were certainly the goals that undergirded the formation of BART and AC Transit. In many ways, they also remain the goals of more recent initiatives like the Complete Streets movement or the recent push among planners for TODs and BRTs. These initiatives, although transit focused, embody many of the same ambitions that undergirded Pruitt Igoe or the grand designs of Ebenezer Howard's Garden Cities. They too have started from the assumption that changes in the built environment -- whether new transit routes, or better housing -- are capable of improving the fortunes of the city's poorest and addressing the deeper problems of congestion, city center decline, and concentrated poverty.

Harvey's concept, "utopias of process," finds its corollary in many of the arguments that emerged in the 1980s for deregulation. For scholars like Robert Cervero (1985) and many others, the answer to the urban transportation problem was to get the government out of the way and free up the market -- be it through the privatization of public transit, the deregulation of taxi licensing, or efforts to weaken transit labor unions. The solution to the urban transportation problem was apparent; one needed only to adopt free market principles, and encourage competition and privatization. Of course, only cursory attention was paid to what, for example, privatizing mass transit might mean for those living in more peripheral areas. And little thought was given to what privatization might mean for residents living in neighborhoods that offered little return on transit investments. In the UK which deregulated urban mass transit in 1985, the results of privatization have been mixed. In many cities, the designation of what are called "socially necessary bus routes" has given lie to the promise of wholesale privatization (Tyson 1990). Similarly, if the urban travel experience in many third world countries is any indication, plans to deregulate taxi licensing and dial-a-ride services are not always positive. While such plans may lower transportation costs for the average customer, they often have the pernicious

effect of resulting in greater congestion. Where there have been demands to deregulate urban transportation, or to privatize it, they have been demands that, like many “utopias of process,” often begin by bracketing spatial difference and denying the inherently spatial challenges that await.

Part of the appeal of Harvey’s approach to urban planning, and part of the appeal of his distinction between utopias of form and process, is that they enable us to understand why transit projects so often fail to live up to their promises. Where transit planners may try to tackle the uniquely spatial challenges of urban sprawl, congestion, and urban poverty with newer trains, faster buses, and better connections, they quickly learn that “brick and mortar” investments in newer buses are not enough. They learn, as with the Boston based sponsors of the UMTA’s demonstration grants -- that the structural problems of unemployment are too complex to be addressed by a bus alone. Similarly, where transit experts like Robert Cervero may assert the power of market forces to address the urban transportation problems of unreliable and costly transit, such experts quickly learn that what their advocated solution looks like on the ground may be completely unexpected. After all, the benefits of a privatized transit system will not mean much to the disabled bus patron living on an “unprofitable” bus route. Such solutions to the urban transportation problem, such utopias of form and such utopias of process, are inevitably complicated by a reality that is necessarily messy. Part of that messiness, of course, is simply rooted in the fact that people and communities have rights. While Wilfred Owen might imagine a city defined by movable sidewalks and massive helicopters, less time is spent with the helicopter operators themselves. Little ink is spent on asking whether such operators have the right to collective bargaining, the right to strike, or the right to demand higher wages, or what that might mean for the costs of helicopter-transit. While Owen’s description of a city defined by cantilever

passageways and coin operated automobiles seems attractive, that vision immediately shatters once we start asking whether such investments will meet ADA requirements, whether such investments can sustain a civil rights lawsuit, or whether they will meet the approval of neighborhood groups worried about their “quality of life.” The idea that in the future all urban transportation will, by definition, be mass transit, is belied by the fact that taxpayers might have rights and that they may be unwilling to shell out the money needed to make such an ideal a reality. These are not idle reflections. They are, instead, examples of a utopia forced to contend with rights. Where transit policies and programs have emerged in some instances as potential solutions to the problems of congestion and automobile dominance, debates over rights matter because they complicate what those solutions will be in reality. They complicate such solutions by inserting moral and political questions into what are often perceived as technical problems. If the history of transit in a place like the East Bay has been the history of the urban transportation problem and the utopic solutions offered to address it, then it has also been the history of the various rights claims which have forced engineers and transit planners to return, head in hands, to the drawing board.

## **Conclusion**

Both in the previous chapter and in the coming chapters, this dissertation aims at making a fairly straightforward argument: namely, that debates over rights ought to matter for those of us interested in the geography of urban transportation; and that urban mass transit policies ought to be seen as central to securing a “right to the city.” This chapter, for its part, starts from the presumption that such a theoretical or “big picture” argument, however important, makes little sense without referencing the history of transit policy itself and, more specifically, without referencing the postwar history of transit policy in the East Bay – the case study region. This

chapter's aim has thus been to offer a brief history of postwar transit policy in the East Bay, and to do so in a way that not only offers a helpful way of interpreting that history, but that also asserts what that history adds to a broader discussion of rights and the role of rights in shaping the geography of transit.

The history of transit in the East Bay, as I have argued, has been the history of the urban transportation problem and the history of the effort to solve it. Over the last fifty years, in many respects, the urban transportation problem has changed very little -- it has remained largely one of congestion, urban sprawl, city-center decline, and parking. What has changed, however, is what the transit solution has looked like. Where federal initiatives like the UMTA began as an attempt by the federal government to spark a transit renaissance and to curb the rising tide of private automobiles, by the 1980s that same optimism had largely been overtaken and replaced, instead, by a growing chorus of experts and planners demanding privatization and deregulation. The transit policy debates and transit infrastructure of today bear the marks of that evolution. In places like the East Bay, the legacy of the 1960s and 1970s is hard to miss. It appears concretely in BART's cement viaducts and in the AC Transit District itself. Similarly, the deregulatory push of the 1980s bore fruit in the rise of part-time labor and federal retrenchment in operating aid in the mid-1990s. The question for us, of course, is what this history allows us to say, more generally, about transit. Borrowing directly from David Harvey, part of what we can say is clear: that the history of transit has not only been the history of the urban transportation problem but it has also reflected the historical interplay between a utopianism of form and a utopianism of process. Harvey's schema is helpful in understanding why policies like the UMTA or policies of deregulation are always incomplete, contingent and prone to failure. Over the next few chapters, however, the focus will be on yet another reason why solving the urban transportation problem

remains so difficult -- because of rights. In the East Bay every effort to solve the urban transportation problem -- whether that effort reflects a utopianism of form or process -- must also reconcile itself with the rights claims and demands of a whole range of groups. These include the demands of the Amalgamated Transit Union Local 192; they include the demands of taxpayers; and they include the rights of minority groups and the disabled. The goal of the following chapters is not to understand these demands in the context of the urban transportation problem, but to understand the urban transportation problem itself as a product of these competing rights.

## Chapter Three: Geography and the Legal Duties of Public Transit

At least since Alexis de Toqueville's *Democracy in America*, rights and "rights-talk" have been viewed as central obsessions of American life (Toqueville 2001 [1835]). Whether in spite of this obsession or in the spirit of it, scholars from Wesley Hohfeld (1919) to Mary Ann Glendon (1993) have been quick to observe that when we invoke rights -- whether in common speech or in front of a judge or a jury -- we frequently do so in the most lazy manner possible. Worse still, while in the throes of claiming this right or that right, we regularly forget that such rights also impose duties, imply liabilities, effectuate costs and -- as will become clear in legal debates over transit policy -- have their own complicated geographies.

This chapter begins with a question. In the East Bay, where do the legal duties of transit agencies begin, and where do the rights of the transit riding public end? This chapter will focus on three civil suits in California in which this question was of central importance. While focusing on these cases, the chapter will build upon the framework developed in Chapters One and Two. To talk about rights, I have suggested, means to talk about transit policy in relation to broader debates over urban citizenship, democratic participation, public assembly, and over the bundle of entitlements that many believe are necessary for living a dignified urban life. In Chapter One, I made this argument anecdotally, and by introducing the idea of the "right to the city." In Chapter Two, I looked at the history of transit policy itself and the importance of rights in understanding that history. This chapter will focus on rights as well, but it will do so largely by focusing on legal rights -- giving particular attention to the relationship between transit policy, the courts, and questions of jurisprudence.

My argument is threefold. First, that the geography of urban transportation has an important legal foundation and that judges and courts matter in shaping what that geography looks like. Second, that many of the legal decisions regarding transit often rest upon necessarily contradictory and partial conceptions of urban space and of transit itself. And lastly, I suggest that if we wish to use the courts to change those things about urban transit that we find unjust, then we not only have to argue about how to define the rights of transit riders and the duties of transit agencies, but we also have to articulate a compelling geography of what those rights and duties entail. The idea of the “right to the city,” I will conclude, offers a step in that direction.

I begin with the case of *Darensburg, et al. v. Metropolitan Transportation Commission* -- a 2005 class action lawsuit filed on behalf of AC Transit’s minority bus riders. I next consider AC Transit’s designation of “Title VI” bus routes. Lastly I analyze two cases on torts: *Bonanno v. Central Contra Costa Transit Agency* (2003) and *Lopez v. Southern California Rapid Transit District* (1985).<sup>49</sup>

In contrast to previous chapters, this chapter’s focus on jurisprudence will strike a notably different tone. Where previous chapters focused on rights alone, this chapter gives almost equal attention to the question of duties and liabilities.<sup>50</sup> Where the previous chapters focused on rights in the abstract, this chapter will focus on the very concrete challenges that judges face in

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<sup>49</sup> The law, to quote E. P. Thompson (1978, 288) “appears at every bloody level.” Thus the task of assessing the entirety of the law’s impact on urban transit would be nearly impossible. The focus here will be on civil suits in which the courts have not only been asked to demarcate the duties of transit agencies and the rights of the riding public, but also to demarcate *where* in the city those rights and duties begin and end. Even with such restrictions, this chapter will appear incomplete. Little attention, for example, will be given to the Americans with Disabilities Act (ADA), to Clinton’s 1994 Executive Order addressing environmental justice, or to legal disputes involving workers. The absence of any discussion of the ADA may be particularly conspicuous given its clear focus on the rights of disabled riders. With that said, any specific focus on the ADA would do little but repeat the general argument of the chapter: that there is a legal and juridical basis for the geography of urban mass transit.

<sup>50</sup> Jurisprudence’s fascination with duties can be traced to scholars as early as Oliver Wendell Holmes (1897) and Wesley Hohfeld (1919), each of whom spoke as much about the duties, liabilities, and remedies as they did about rights.

deciding who is owed a duty and who has a corresponding right. In addition, this chapter will focus on the ways that judges and courts must decide between profoundly different conceptions of *where* in the city those rights and duties arise.

### **Background to *Darensburg v. MTC***

Created by the California State Legislature in 1970, the Metropolitan Transportation Commission (MTC) is the designated Metropolitan Planning Organization (MPO) for the nine-county Bay Area. Its remit extends from the East Bay counties of Alameda and Contra Costa to the counties of Sonoma, Napa, San Mateo, Solano, San Francisco, Santa Clara and Marin. As with all MPOs, the MTC functions to funnel both federal and state money to a range of different transportation projects and initiatives across the region. These include everything from the retrofitting of bridges and the repaving of roads, to capital and operating support for public mass transit.<sup>51</sup> In order for the MTC to receive federal funds -- which account for a large proportion of the MTC's highway and mass transit budget -- the agency is tasked with updating a Regional Transportation Plan (RTP) every four years. This plan outlines and justifies the selection of various transportation projects in the region for funding and implementation. In formulating the RTP, the MTC takes the long view and bases its budget on a 25-year projection of demographic, economic, and land use change within the nine counties. Crafting the RTP can be a contentious process and often involves years of debate between various stakeholders in the region. In recent years, and as evidenced in cases like *Darensburg v. MTC*, these debates have not only been over the general level of transit funding but also whether certain transit projects -- and by proxy certain transit riders -- are more important than others.

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<sup>51</sup> The seven largest transit operators in the Bay Area are: AC Transit, BART, Caltrain, Golden Gate Transit, MUNI, SamTrans, and Santa Clara Valley Transit Authority. Of these seven, MUNI (~220 million), BART(~101 million) and AC Transit (~65 million) have the highest annual ridership (*Darensburg v. MTC* 2009, 13).

In 2005, Sylvia Darensburg of Oakland, California, along with two other minority AC Transit riders, filed a class action lawsuit against the MTC.<sup>52</sup> Facilitated by the public interest law firm Public Advocates, the suit accused the MTC of violating both Title VI of the 1964 Federal Civil Rights Act and California's Government Code section 11135 -- a state law barring public agencies from discriminating on the basis of race, color or national origin (Cal. Gov. Code § 11135). The suit alleged that in 1998, 2001, and then again in 2005, the MTC engaged in policies that not only violated Sylvia Darensburg's civil rights, but that injured the entire class of individuals that Darensburg represented -- namely, AC Transit's minority bus riders. The specific contention of the plaintiffs was quite simple: that the MTC consistently made funding decisions that "adversely affect AC Transit's largely minority riders, in comparison to the more affluent and white riders of the other larger carriers in the Bay Area" (*Darensburg v MTC* 2009, 1). In 2008, the US District Court for Northern California agreed to try the case on the grounds of disparate impact discrimination under Cal. Gov. Code § 11135.<sup>53</sup> The trial focused on a number of quite technical questions -- questions of legal standing, of the private right of action, and of disparate impact discrimination itself. The trial also raised a set of broader and deeper questions. These were questions of rights, of corresponding duties, and of the idea of transit justice.

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<sup>52</sup> As a class action lawsuit, Sylvia Darensburg was the representative plaintiff for a class of individuals. That class consisted of Black, Hispanic, Asian or Pacific Islander, as well as American Indian or Alaskan Natives who were patrons of AC Transit. Apart from Sylvia Darensburg, the "named plaintiffs" in the original suit included the plaintiffs Vivian Hain and Virginia Martinez, also East Bay minority bus riders. In addition to these three individuals, the case also included two organizational plaintiffs: the Amalgamated Transit Union Local 192 (ATU) -- a labor union representing AC Transit drivers -- and Communities for a Better Environment (CBE) -- a self-described social justice organization focused on issues of environmental health (*Darensburg v. MTC* 2009, 7).

<sup>53</sup> The history of disparate impact discrimination is an interesting one and begins with the Supreme Court's decision in *Griggs v. Duke Power Co.* (1971), whereby the court found that the use of an IQ test by a power company for job applicants-- while facially neutral -- stood in violation of Title VI of the 1964 Civil Rights Act because of its disparate impact on minority applicants (*Griggs v. Duke Power Co.* 1971). The Supreme Court has since limited the private right of action under Title VI to intentional discrimination (*Alexander v. Sandoval* 2001). These same limitations, however, do not extend to the corresponding California statute, Government Code 11135, where the private right of action in disparate impact claims remains intact (Cal. Gov. Code § 11135). It was under this statute that the Darensburg case was tried.

From the very beginning, the Darensburg case became something of a *cause célèbre* among transit justice activists in the East Bay. In some ways, the image of Sylvia Darensburg herself lent itself to that very purpose. In 2005, Sylvia Darensburg lived in East Oakland. She was a mother of three teenage boys and was a part-time student. Darensburg relied on AC Transit for both work and for school, and like many AC Transit riders, she struggled to cope with fare hikes and service reductions. Not only were fare hikes stretching her budget thin, but reduced transit service was limiting her ability to keep and maintain jobs. Slow buses and transit delays meant that Darensburg occasionally arrived late to work and was docked pay. With cuts to evening services, Darensburg was also finding it almost impossible to attend the night classes she needed to advance her career and climb out of poverty (Mayer and Marcantonio 2005, 20). Of course, in many ways, the challenges Darensburg faced were far from unique. Indeed, this was what made her case so compelling. As a woman, as an African American, and as a transit-dependent rider, Sylvia Darensburg embodied the very class of riders in the nine county Bay Area for whom transit was increasingly unreliable, costly, and inefficient. At the heart of the lawsuit was the claim that the challenges Darensburg faced were rooted in policies endorsed by the MTC. These were policies that functioned to subsidize white rail commuters at the expense of AC Transit's minority bus riders. In some ways, the origins of the Darensburg case remain something of a mystery. We do not know, for example, if it was Darensburg herself that initiated contact with Public Advocates, or whether it was the other way around. Similarly, we do not know whether it was one incident in particular or several that prompted Darensburg finally to take legal action.<sup>54</sup>

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<sup>54</sup> The idea that AC Transit's minority riders might have a strong civil rights case against the MTC surfaced long before the Darensburg suit. As early as 1997, Kevin Siegel -- a law student at Berkeley's Bolt Law School -- made exactly that case. Fresh off the success of the Los Angeles Bus Rider's Union's suit against the Los Angeles MTA, Kevin Siegel's essay "Discrimination in the Funding of Mass Transit Systems" suggested that a similar suit could be successful in the Bay Area. According to Siegel, one way to make a *prima facie* case of disparate impact discrimination was to look at the MTC's allocation of both capital and operating subsidies, normalized by rider and transit system. Basing their calculations on the constrained capital plans for BART and AC Transit from 1996 to

What is not disputed, however, is that throughout the trial, the image of Sylvia Darensburg loomed quite large. As the East Bay's own Rosa Parks, not only did Darensburg seem to embody an older tradition of civil rights activism, but she seemed to embody an emergent movement in the East Bay focused on transportation justice, one that was eager to use the courts to advance its goals (Mayer and Marcantonio 2005, 20).

For observers at the national level, the Darensburg suit may have seemed old hat. Ten years prior, in fact, the New York Urban League and the NYC Straphanger's Campaign had brought a similar suit against the New York Metropolitan Transportation Authority (NYMTA). In their suit, the New York Urban League challenged the NYMTA's decision to raise fares disproportionately on inner-city subway and bus riders, while seeking a far more modest fare hike for commuters riding Metronorth, a suburban rail service (*N.Y. Urban League v. Metropolitan Transportation Authority* 1995; Siegel 1997, 1). In New York, inner-city subway and bus services largely catered to low income and minority patrons. Metronorth service, on the other hand, catered to a more white and affluent clientele. While a general increase in fares might have been necessary,<sup>55</sup> the agency's decision to impose a relatively greater fare hike on inner city bus and subway users seemed patently unfair. In light of this, the New York Urban League and the Straphanger's Campaign accused the NYMTA of violating Title VI of the 1965 Civil Rights Act and of enacting a policy that, if not discriminatory on its face, certainly had a disparate impact on minority bus and subway riders (Siegel 1997).

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2005, Siegel and transit planner Thomas Rubin went on to argue that MTC subsidized BART passengers at a rate of 71% more than AC Transit riders (\$4.98 for BART riders and \$2.91 for AC Transit patrons). Siegel also suggested that riders could challenge the allocation of certain uncommitted and committed streams, whether those funds came from vehicle registration surcharges, or whether they came from the county sales taxes (Siegel 1997, 114-119).

<sup>55</sup> In 1995, the federal government eliminated all federal operating aid to local transit agencies. This prompted a national wave of service cuts and fare hikes. The New York MTA was no exception (Fram 1995; Henneberger 1995).

In 1994, a year earlier, the Los Angeles Bus Riders Union (BRU) had brought a similar class action lawsuit against the Los Angeles MTA. The issue was largely the same. In 1994, the Los Angeles MTA budgeted \$123 million to expand the Pasadena Blue Line -- a commuter rail line serving the largely suburban and relatively affluent area of Pasadena. The hope was that the expansion would attract new patrons and divert commuters from the city's already congested highways. Of course, transit advocacy groups like the BRU were not opposed to expanding transit ridership. For the BRU, however, the MTA's decision to simultaneously reduce local bus service and raise local bus fares reeked of a blatant and cynical effort to transfer resources from poor people of color to the largely white and affluent residents of Pasadena (Siegel 1997, 112-114). Critics of the project found further justification, after it was revealed that the \$123 million estimate for the construction of the Blue Line was almost exactly the amount of money accrued through the cost savings associated with the service reductions (\$126 million). After winning a restraining order, the BRU also won a consent decree from the MTA stipulating a plan to reduce overcrowding, improve bus service, and expand the bus fleet by 15% (Siegel 1997, 112; Marcantonio and Jongco 2007, 10).

In many ways the 2005 Darensburg suit emerged in the context of an already established transportation justice movement. At the national level, this took the form of organizations like the Transit Equity Network (TEN), Reconnecting America, and SmartGrowth USA. At the local level this was reflected in East Bay groups like: Urban Habitat, the Alliance for AC Transit, Building Opportunities for Self Sufficiency (BOSS), Communities for a Better Environment (CBE) and the Bay Area Transportation and Land Use Coalition (BATLUC).<sup>56</sup> In this context, the Darensburg suit, more than anything, emerged as an effort to take the fight for transit equity

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<sup>56</sup> As an indication of BATLUC's particular prominence, a common refrain in the transit advocacy community was "If we didn't have BATLUC, we wouldn't have any luck at all" (John Katz, Interview, November 29, 2010).

to the courts.<sup>57</sup> Of course, support for the Darensburg suit also extended beyond the transportation justice community. In late 2005, in a letter to then MTC Chairman Jon Rubin, both state Assemblywoman Loni Hancock and federal House member Barbara Lee offered their firm support to Darensburg and what she represented.<sup>58</sup> East Bay transit riders, they argued in the letter, not only “deserved to be treated equitably” but also deserved both an “equitable subsidy of public dollars” and “equal access to a vital transit service” (Hancock 2005).<sup>59</sup> Along with lawyers from Public Advocates, Darensburg’s counsel team also included Bill Lann Lee. Lee had been the lead lawyer in the successful Los Angeles BRU suit against the Los Angeles MTA in 1995. He had also served as the Assistant Attorney General for Civil Rights under Bill Clinton. Despite a great deal of community support and an experienced legal counsel, judges at both the federal district court level and at the appellate court level ultimately ruled in favor of the MTC (*Darensburg v. MTC*, 2009; *Darensburg v. MTC*, 2011). The arguments upon which these decisions were based bear closer examination.

### ***Darensburg v. MTC***

Your honor, you are about to enter, with your glossary, a seemingly complex, jargon filled world of transit planning, and you are going to have to learn a new language of funding sources and regional transportation. However, this case, at bottom, is actually

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<sup>57</sup> In their 2006 report, *MTC, Where are Our Buses?* Urban Habitat argued that the Darensburg case “represented an important tool in the long struggle for equity in Bay Area transportation funding” (Urban Habitat 2006, 5). The report also warned against a narrow focus on the courts, suggesting instead that the work of lawyers could only be successful with the support of organized communities.

<sup>58</sup> In addition to Loni Hancock (Assemblywoman) and Barbara Lee, signatories on this letter included George Miller (Congressman), Don Perata (State Senator), John Klehs (Assemblyman), William Chan (Assemblyman), Keith Carson (Alameda County Supervisor), and John Gioia (Contra Costa Supervisor) (Hancock 2005).

<sup>59</sup> The range of supporters also included the ACLU who in 2005 filed an amicus curie on behalf of Darensburg (ACLU 2005). In 2005 as well, both the Berkeley and Oakland City Councils passed resolutions “Supporting Increased Financial Support of AC Transit for the Equitable Benefit of its Passengers by the Metropolitan Transportation Commission” (Berkeley City Council Resolution 2005; Oakland City Council Resolution 2005).

simple. As evidenced by the existent factual stipulations, there are many facts that are not in dispute. MTC agrees that AC Transit is in dire need of operating funds. MTC agrees that it does not fund all of AC Transit's operating needs. MTC agrees that AC Transit's ridership is overwhelmingly composed of members of the plaintiff class [...]. MTC agrees that it allocates billions of dollars to rail expansion while bus systems in the Bay Area are experiencing a reduction in service levels. While they may not agree with this characterization, what this comes down to is favoring one component of the region's transportation system over another (Bill Lann Lee, Transcript of Proceedings, October 1<sup>st</sup> 2008, 7).

The Darensburg suit went to trial on October 1, 2008. The presiding judge was Elizabeth Laporte and the suit was tried in the United States District Court for the Northern District of California. As is customary in cases involving disparate impact discrimination, the trial followed a rather straightforward formula. Plaintiffs were asked to prove that the occurrence of certain outwardly neutral practices had a significantly adverse and disproportionate impact on minorities. If such an impact was proven, defendants were then required to demonstrate a substantial justification for undertaking the policies in dispute. Lastly, if defendants met this burden -- often by designating such policies in terms of a "business necessity"-- plaintiffs were then required to show that there existed an alternative practice that was both less racially disproportionate and equally effective (Siegel 1997, 108).

Over the course of the trial, the Darensburg council focused on three ostensibly neutral MTC practices that it believed disparately affected AC Transit's minority riders. These include the MTC's allocation of "uncommitted funds"; the MTC's allocation of "committed funds"; and lastly the MTC's adoption of Resolution 3434: the Regional Transit Expansion Program (RTEP).

The plaintiffs argued that in all three cases, the MTC used its discretion to allocate money to projects benefiting the predominantly white riders of BART and Caltrain, while doing nothing to stem service reductions and fare hikes at AC Transit.

With respect to “uncommitted funds” the Darensburg counsel focused on the MTC’s use and allocation of federal funds provided by the Federal Highway Administration (FHWA).<sup>60</sup> These funds included those authorized by the Surface Transportation Program (STP), the Congestion Mitigation and Air Quality Program (CMAQ), and the Transportation Enhancement Activity Program (TEA). The plaintiffs argued that in each case, the MTC had made the decision to “artificially restrict the availability” of such funds and to ignore the obvious capital and operational needs of AC Transit (Opening Statement of Bill Lann Lee, Transcript of Proceedings, October 1<sup>st</sup> 2008, 6). The plaintiffs noted that in 2004/2005, the MTC received a “windfall” from both the CMAQ and STP programs. While the MTC directed a considerable amount of these additional funds to BART and Caltrain projects, none of these funds were allocated to AC Transit (Testimony of Therese McMillan, Transcript Proceedings, October 2<sup>nd</sup> 2008, 284). Similarly, the plaintiffs noted that in 2006, the MTC had taken the extraordinary step of allocating STP funds to BART in the form of preventative maintenance. This was a rather unusual practice but it allowed BART to address a shortfall in its capital rehabilitation budget. Drawing on these examples, the plaintiffs argued that the MTC was behaving in ways that not only ignored the needs of AC Transit riders, but also clearly gave preference to operators like

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<sup>60</sup> Uncommitted or “Track 1” funds like CMAQ are restricted -- save a few exceptions -- to capital expenditures. The use of STP funds is generally less restricted. While the MTC has not traditionally used STP funds for preventative maintenance or operating expenses, the plaintiffs argued that there was nothing barring MTC from doing so. This fact was corroborated during the trial by expert witness Therese McMillan-- then serving as the Deputy Director of Policy at the MTC (Transcript of Proceedings, October 2<sup>nd</sup> 2008, 224).

BART and Caltrain and, by proxy, clearly gave a preference to the more affluent and white riders who patronized those systems (Bill Lann Lee, Transcript of Proceedings, October 1<sup>st</sup> 2008, 6).

With respect to “committed funds,” the plaintiffs focused on two areas: first, the MTC’s allocation of FTA formula grants, and second, the MTC’s allocation of funds under the State Transportation Improvement Program (STIP).<sup>61</sup> While the MTC allocated FTA formula funds on the basis of a scoring system, the MTC’s allocation of STIP funds was a more complicated process. In particular, the MTC was only able to allocate STIP funds after compiling and submitting a list of its priority projects to the California Transportation Commission (CTC).<sup>62</sup> During the trial, the plaintiffs took issue with both the scoring process by which the MTC directed federal formula money, as well as the way the MTC selected projects to receive STIP funding.<sup>63</sup> In both cases, the plaintiffs argued that the MTC gave preference to capital projects and rail expansions while neglecting the operational needs of AC Transit.

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<sup>61</sup> By definition, committed funds are “dedicated by law, ballot measure or prior MTC programming actions to specific transportation investments” (*Darensburg v. MTC* 2009, 31) State committed funds include those passed through statewide ballot measures like Proposition 1b, Assembly Bills like A.B. 664, and Regional Measure 1, all of which direct toll bridge revenue to the MTC (*Darensburg v. MTC* 2009 38-44).

<sup>62</sup> In the Bay Area, FTA formula funds (also called section 5307 and 5309 funds) are administered by the MTC using the Transit Capital Priorities program (TCP) -- a scoring system which ranks projects on a scale from 8 to 16. Projects scoring 16 are normally funded while projects scoring 8 are usually not. The FTA administers these grants as formula grants based upon population and population density. Following the passage of the Transportation Equity Act in 1998, section 5307 funds have become eligible to be used for some operating costs if defined as “preventative maintenance” (*Darensburg v. MTC* 2009, 31-35). Along with section 5307 and 5309 funds, there are also a set of even more restricted pots of money. These include the funds associated with the Job Access and Reverse Commute program (JARC), as well as grants for improving the accessibility options for the disabled. At the state level, committed funds take the form of Transportation Development Funds (TDA). These funds are derived from a ¼ percent tax on all retail sales. Committed funds also take the form of State Transit Assistance funds (STA). STA funds provide a major source of operating aid to AC Transit (2009, 38-45). During the recent financial crisis STA funds were raided by the state legislature much to the detriment of AC Transit (Schmidt 2010)

<sup>63</sup> The process by which STIP funds are allocated involves the collaboration of both local MPOs and county level congestion management officers. Together, both MTC officials and congestion managers compile a list of priority transportation projects. This list is then funded or denied by the California Transportation Commission on the basis of need and competing demand (*Darensburg v. MTC* 2009, 45).

Lastly, the plaintiffs took issue with the MTC's adoption of Resolution 3434: the Regional Transit Expansion Program (RTEP).<sup>64</sup> The MTC adopted Resolution 3434 in 2001. At its simplest, Resolution 3434 was a list of high priority rail and express bus projects to be included in the larger RTP. Of all their arguments, the plaintiff's case against Resolution 3434 was perhaps the strongest and the most straightforward. The plaintiffs argued that the overrepresentation of rail projects in Resolution 3434 functioned to have a disparate impact on AC Transit's largely minority riders. In making this point, the plaintiffs highlighted the distinctive racial character of Bay Area transit. In the Bay Area, bus transit largely catered to minority riders. Rail passengers, by comparison, were more likely to be white.<sup>65</sup> By dint of this fact, the overrepresentation of rail projects in Resolution 3434 necessarily benefited white riders more than riders of color.<sup>66</sup> The plaintiffs went on to cite a number of instances in which Resolution 3434 had clearly excluded bus projects in favor of rail projects. In 2001, the plaintiffs noted, AC Transit had requested funds under Resolution 3434 for a Bus Rapid Transit project connecting Berkeley to San Leandro. They also requested funding for ten additional "bus only projects" along several transit corridors in the East Bay. Of the nearly \$1 billion requested, AC Transit received only \$200 million (*Darensburg v. MTC* 2009, 26). Ultimately, the 2001 RTP included five BART projects, two Caltrain projects and only parts of two AC Transit/Bus Rapid

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<sup>64</sup> Resolution 3434 was passed in 2001 as the successor to Resolution 1876. Through the 1990s, Resolution 1876 saw the implementation of a number of high profile projects under its banners. These included the BART extension to Pittsburg/Bay Point, Dublin/Pleasanton, and the BART extension to the San Francisco Airport (*Darensburg v. MTC* 2009, 24).

<sup>65</sup> The plaintiff's attack on Resolution 3434 relied on a different set of comparisons than were used in earlier arguments. Here the plaintiffs were not comparing AC Transit riders with BART or Caltrain riders, but rather they were comparing Bay Area rail riders with Bay Area bus riders. With respect to Resolution 3434, they based their disparate impact claim on the fact that 51.6% of rail passengers in the Bay Area were minority while 66.3% of bus riders in the Bay Area were minority (*Darensburg v. MTC* 2009, 70).

<sup>66</sup> This overrepresentation was largely a function of the fact that the MTC held higher standards for funding bus projects as compared to rail projects. Resolution 3434, for example, stipulated that any "bus only" project included in the RTP must "effectively address congestion relief by proving a clearly attractive alternative to single occupancy vehicles" (*Darensburg v. MTC* 2009, 25). This same requirement was not extended to rail projects. As MTC's Terry McMillan testified, it was simply assumed that rail projects would have this effect (Transcript of Proceedings, October 21<sup>st</sup> 2010, 1256-1258).

Transit projects. This same disparity appeared in 2005. As Thomas Rubin testified, nearly 95% of all Resolution 3434 projects in 2005 went to rail projects, while less than 5% went to bus projects (Transcript of Proceedings, October 8<sup>th</sup> 2008, 517).<sup>67</sup>

On March 27, 2009, the court submitted its verdict. Judge Laporte concluded that the plaintiffs had failed to prove disparate impact discrimination with respect to the MTC's allocation of committed and uncommitted funds. The court did, however, raise concerns with respect to the disparate impact implications of Resolution 3434. Judge Laporte confirmed that Resolution 3434 funds in 2005 resulted in greater support for rail projects and less support for bus projects. Moreover, given the racial breakdown of bus versus rail transit in the Bay Area, Judge Laporte agreed that Resolution 3434 necessarily had a disparate impact on minority bus riders in the East Bay. Despite this finding, the court also concluded that the MTC offered a compelling justification for this policy. This justification rested on the MTC's statutory need (i.e. "business necessity") to "balance competing interests and satisfy diverse and sometimes conflicting mandates" (*Darensburg v. MTC* 2009, 81). Apart from its duty to AC Transit's minority riders, the MTC had other duties. Many of these duties, in fact, were defined by federal statute. Citing Title 23 and Section 134 of the US Federal Code on Highways, the court noted that the MTC's priorities and duties were quite clear. These duties include:

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<sup>67</sup> Over the course of the month long trial, the defense acknowledged the difficulties of AC Transit's minority riders, but it also countered that many of the problems at AC Transit were outside of the MTC's control. The MTC argued that they had been more than generous in their support of AC Transit. Apart from criticizing expert witnesses like Thomas Rubin for exaggerating AC Transit's deficit problems, the defense pointed out that in the case of both committed and uncommitted funds, pumping more money into AC Transit amounted to taking it away from elsewhere -- whether that was from bridges, other carriers, or capital refurbishment needs. Despite the plaintiff's claims that the MTC and the RTP process treated AC Transit unfairly the MTC cited a number of examples in which the MTC had done exactly the opposite -- namely, instances in which the MTC had rededicated federal formula grants to AC Transit in the form of preventative maintenance (*Darensburg v. MTC* 2009, 66). In response to the plaintiff's critique of Resolution 3434, the defense used a different tact. The MTC argued that the plaintiff's distinction between high minority systems like AC Transit (78%) and low minority system like BART (53%) was an arbitrary one. Moreover, in terms of absolute numbers, a system like BART actually surpassed AC Transit with respect to minority ridership (2009, 15). Where the plaintiffs argued that Resolution 3434 favored rail projects over bus projects, the MTC argued that such rail projects were just as beneficial to minorities as bus projects.

- (A) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity and efficiency
- (B) Increase the safety for motorized and nonmotorized users
- (C) Increase the security of the transportation system for motorized and nonmotorized users
- (D) Increase the accessibility and mobility of people and for freight
- (E) Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns
- (F) Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight
- (G) Promote efficient system management and operation; and
- (H) Emphasize the preservation of the existing transportation system

*(Darensburg v. MTC 2009, 82; 23 U.S.C § 134)*

Given such duties, the MTC argued that its adoption of Resolution 3434 made perfect sense. Expanding BART and expanding Caltrain, the MTC suggested, were key to enhancing regional connectivity, global competitiveness, and moving people from single occupancy vehicles into transit. In ruling for the MTC, the court accepted this view. Moreover, it accepted the view that MTC's duties ought to be understood in regional terms rather than to one transit agency serving only one part of the metro area. While the court acknowledged the hardship of riders like Sylvia Darensburg, it rejected the plaintiff's claim that the MTC was liable or duty bound to address those challenges. Of course, in ruling for the MTC, the court not only accepted the MTC's explanation of its duties, but it also implicitly accepted something else. Namely, the court implicitly accepted the MTC's general view of transit in the Bay Area. Throughout the trial the

MTC had not only accused the plaintiffs of “handpick[ing] one operator -- AC Transit” as the victim of injustice, but the MTC had also argued that the plaintiff’s very geographic conception of urban transportation in the Bay Area was a fundamentally flawed one.

As Kimon Manolius -- the lead defense attorney for the MTC -- argued:

Again, the goal of transit is not for an individual to take one operator over another, but to get where they need to go. I have a scenario I want to share with the court. Just say that you have someone living in Sonoma who was a minority rider of AC Transit -- because they use Transbay to go the other way across the bridge. But they are also very close to the Transbay terminal. They had access to Golden Gate Transit. They had access to BART and Embarcadero. They had access to all sorts of places. In the plaintiff’s analysis that person would be disproportionately affected assuming one of those operators did not get the same amount of money as another, when indeed they are not disproportionately affected at all because they have access to a number of other operators...people don’t necessarily focus on one operator, but to gain access to the entirety of the system (Transcript of Proceedings, December 16<sup>th</sup> 2008, 1504).

Earlier in the trial Manolius had said much the same thing:

The 26 operators within the nine county area do not operate in 26 individual vacuums. They interconnect. This is a regional transportation system. They coordinate. AC Transit and SamTran buses feed BART. BART pays AC Transit to run those feeder buses. Santa Clara’s VTA is the project sponsor for the BART expansion to San Jose, and through Fremont. SamTrans helped build and operate BART from San Mateo County. There are

so many examples of this interconnection and coordination (Transcript of Proceedings, October 1, 2008, 29).

In their closing arguments, the lawyers for the MTC asked the court to imagine a minority rider traveling from Oakland to Sonoma County or from Berkeley to Warm Springs. They asked the court to imagine a rider for whom AC Transit was simply one of a number of possible carriers and for whom a trip across the Bay Area most likely required transferring from one transit provider to another -- whether from Golden Gate Transit to BART or from AC Transit to SamTrans. For that minority rider, Resolution 3434 was a godsend. Of course, the MTC's argument was clear. Transit in the Bay Area was not easily divisible along racial or geographic lines. The 26 operators in the Bay Area, as Manolius argued, did not operate in a vacuum. Far from "separate and unequal," the Bay Area's transit system was a complex web of overlapping routes, multiple paths, and numerous connections. The MTC's duties to regional connectivity, to economic vitality, and to global competitiveness relied on enhancing and supporting these various connections and links.

But for plaintiff Sylvia Darensburg, such a rendering of transit in the East Bay missed the point. The minority rider that the MTC had described bore little resemblance to someone like Darensburg. In the face of service cuts and fare hikes, Sylvia Darensburg was more interested in using AC Transit to pick up her kids across town, than taking a trip to Warm Springs or transferring between AC Transit and SamTrans. Efforts to expand BART to Warm Springs, or to increase regional connections to Caltrain, meant little for riders whose lives were largely restricted to Oakland or the East Bay.<sup>68</sup> According to the court, however, the MTC's duties only

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<sup>68</sup> To these questions the MTC responded with its own set of equally valid and compelling questions. Shouldn't connectivity be an important goal for a region like the Bay Area? In areas like Fremont and San Jose with large

extended to a riding public with cross-county and inter-agency transit needs -- i.e., not Sylvia Darensburg nor the thousands of riders whose lives largely took place in the confines of the East Bay.

What are we to make of the Darensburg case? For Judge Laporte, the case rested on a number of questions. Apart from questions of legal standing or disparate impact discrimination, these were fundamentally questions about duties, rights and geography. They were questions about whether the MTC's preference for rail transit violated Sylvia Darensburg's right to equal treatment under the law or whether that preference was justified given the geographic scope of the MTC's duties. The court's ruling against Darensburg affirmed several things. Not only did it affirm that the MTC's broader duties to regional connectivity and global competitiveness far outweighed the local transit needs of minority riders like Sylvia Darensburg, but it also affirmed a view of the Bay Area in which regional connectivity could exist side by side with local immobility. By ruling for the MTC, the court accepted a representation of the Bay Area's transit geography that, in many ways, functioned to erase both the reality and experiences of local AC Transit riders while forwarding a representation that bore little resemblance to how transit in the Bay Area was actually lived on the ground. More than anything, the court's ruling sanctioned and concretized a geography in the Bay Area in which riders like Sylvia Darensburg might have an easier time traveling to Warm Springs than down the block. This was a geography in which minority riders in the East Bay -- in the absence of local service -- might still have an actually existing right to travel as far as San Jose, but no desire or reason to do so.

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minority populations, wouldn't increased rail transit miles be beneficial? Would not easy and reliable rail access to the region's airports be both efficient and in line with the goals of reducing congestion and cutting down greenhouse gas emissions? (Transcript of Proceedings, October 1<sup>st</sup>, 2008, 41)

## **Title VI at AC Transit**

In 2010, AC Transit's Board of Directors faced its own mini-civil rights controversy. Of course, 2010 was a horrible year for AC Transit. By the fall, the agency had already cut service twice and more cuts were on their way (Cabantuan 2010a). On September 22, AC Transit's planning staff presented the governing board with yet another list of lines to be cut for December. These cuts were to be the deepest yet and promised to reduce service to levels not seen since 1996/1997 (see Appendix C: Graph 1). Given the extent of such cuts, AC Transit's planning staff -- as required by federal and local statute -- conducted a preliminary Title VI analysis. Their analysis selected a number of routes to be cut, while also identifying a number of routes that were ostensibly held harmless from cuts. These latter routes included Route 26 operating in West Oakland, Route 76 in East Oakland, and Route 45 in North Richmond. Despite having relatively low ridership, these routes operated in areas with a high concentration of minorities and low instances of car ownership. AC Transit's staff proposed retaining these three lines to obviate a Title VI legal challenge. On September 22, AC Transit's staff presented this preliminary analysis to the board and to the public (AC Transit Board memo 2010a). At the public board meeting, observers were treated to a heated exchange between Greg Harper -- an elected board member, from the city of Emeryville -- and the agency's equity analyst Tina Spencer. Harper challenged the validity of the preliminary Title VI analysis and questioned aloud why the agency ought to spare poor performing lines like Route 26 while axing popular lines like Route 14. The exchange proceeded as follows:

**Harper:** Staying on the subject of Title VI, I have some real problems with how Title VI was brought to bear in North County. [Title VI] is supposedly put there to save the 26 which has 652 riders [per weekend day]. [At the same time] we are cutting the 14 which

has 2,000 riders and the 62 which has 2,000 riders and both routes go through very low income areas... I'm trying to figure out how this is working.

**Spencer:** Well it's only a preliminary analysis [...], it was based on the identification of a map. We basically looked at the map and matched it up with census tracts of low income and minority neighborhoods. We realized that in certain neighborhoods there were no alternatives at all. In West County, there [...] were potentially hundreds of blocks with no service and we knew that that would be a problem in the future when we did the full Title VI analysis [...]. We do realize that we are going to have to do more analysis when we get more data available to us [...]. We didn't say [ however] that the 300 people who are on the bus in West County have more or less of a right to the bus than people on the 14, that was not what we looked at when we did this preliminary review.

**Harper:** Well that is kind of how it looks like it came out. I mean, I think when you save a bus with 652 people on it and you are cutting buses with 2,000 people on it, you better damn well have a good explanation for why in the world that's happening.<sup>69</sup>

For Greg Harper, the Title VI analysis missed a great deal. In a system that was 78% minority, why, Harper asked, would riders of Route 26 have more of a right to their bus than riders of Route 14? Why was it fair to eliminate service for the 2,023 weekend riders on Route 62 only to save a line with 652 weekend riders? AC Transit's analysis, Harper seemed to suggest, completely missed the geographic reality of AC Transit -- this was a reality in which not a small percentage of AC Transit riders regularly transferred buses to complete their trips. In 2002, in fact, 41% of AC Transit riders needed two buses to complete a one way trip (AC Transit

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<sup>69</sup> AC Transit provides audio recordings of all public hearings online. They can be accessed at: <http://www.actransit.org/about-us/board-of-directors/board-memos/>

ridership survey 2003, 12). Who wasn't to say -- Harper might have asked -- that those same West Oakland riders on Route 26 wouldn't find themselves without a Route 62 to transfer to?

In many ways, Greg Harper's problems with AC Transit's Title VI analysis were similar to those raised by the MTC in the Darenburg case. Like the MTC, Harper seemed skeptical of efforts to understand transit along racial or geographic lines. Since transfers between routes at AC Transit were common, it made little sense to think about Route 26 as in any way more important than Route 14. Of course, only several years earlier, and in the midst of *Darensburg v. MTC*, advocates of AC Transit had been quick to draw hard and fast racial distinctions between AC Transit, BART, and Caltrain. In 2010, however, AC Transit officials like Greg Harper seemed to be skeptical of applying that same logic at the local level. AC Transit ultimately postponed the December cuts and both the 14 and 62 were spared, but Greg Harper's broader concerns with AC Transits cuts nevertheless reflected the same challenge that had faced Judge Laporte. In both cases, the challenge was how to define the rights of transit riders and the duties of transit agencies in the context of transit's complex geography. The problem, in both cases, was how to define the duties of transit agencies in ways that remained true to the geographic reality of minority transit riders.

### **Torts and Transit**

The following section moves from one kind of law -- civil rights law-- to another, the law of torts, personal injury, liability and negligence. Torts are defined broadly as civil wrongs (Prosser 1941). Tort law, by extension, refers to the rules governing what constitutes a wrong and how to assign responsibility when a wrong is identified. Torts appear all around us. Legal debates over personal injury, over product safety, and over fault in various accidents, are so ubiquitous as to

be unremarkable. Public transit agencies, like all government agencies, are not immune from tort challenges and, in fact, these challenges can be quite daunting for such agencies. A 1994 report by the Transit Cooperative Research Program (TCRP), noted that tort liability payments, on average accounted for 5.67% of total fare revenue. At one agency, this number was nearly 23% (TCRP 1994, 3). Torts are not only burdensome on transit agencies, but they also impose burdens on the public for whom such agencies rely for funding.<sup>70</sup> Drawing upon the cases of *Bonanno v. CCCTA* (2003) and *Lopez v. SCRTD* (1985) this section will explore the implications of tort rulings on how we understand the geography of transit.

### ***Bonanno v. CCCTA***

In the fall of 2010, I sat down with a senior planner at AC Transit. The conversation began on the topic of AC Transit's curious designation of Title VI routes. After a short time, the conversation unexpectedly shifted to one on tort law. In particular, the planner wanted to talk about what he argued had been a relatively recent sea change in transit planning. The planner was referring to the case of *Darlene Bonanno v. Central Contra Costa Transit Authority* (CCCTA). More particularly, he was referring to the 2003 California Supreme Court decision which held the CCCTA liable for injuries sustained by Darlene Bonanno while she approached a bus stop. The planner argued that the ruling had already had a tremendous impact on how transit planners approached their duties (Senior Planner, Interview, October 13, 2010). Per the decision, transit companies could now be held liable both for accidents in which the company was directly involved (i.e. a bus hitting a pedestrian), as well as for accidents "caused" by the very location of a bus stop itself (*Bonanno v. CCCTA* 2003). In *Bonanno v. CCCTA*, the central question before

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<sup>70</sup> In an ideal world, the authors of the TCRP report concluded, "state tort laws would balance the rider's rights to be made whole by the negligence of public transit systems [with] the fiscal concerns of taxpayers" (1994, 3).

the court was what constituted a dangerous condition of public property, and whether the location of a bus stop might count as such a condition under state tort law.

On November 16<sup>th</sup> 1993, while en route to a bus stop at the intersection of DeNormandie and Pacheco Boulevard in the East Bay city of Martinez, Darlene Bonanno was struck by a car. After initially lapsing into a coma, she later regained consciousness and underwent surgery on her foot. In 1994, Bonanno sued the CCCTA, Contra Costa County, Jeremy McClain the negligent driver, as well as Kaiser Hospital where she had been treated. By 1999 all defendants but the CCCTA had settled and Bonanno was left to try her case against the CCCTA alone. Bonanno's theory of liability against the CCCTA was an interesting one. It relied on California State Government Code sections 830 and 835 -- sections that identify what types of tort actions against public agencies can proceed. Government Code section 835 mandates that public agencies can be held liable for injuries caused by a dangerous condition of public property (Cal. Gov. Code § 835). Government Code 830 further defines a "dangerous condition" as a condition of property "that creates a substantial risk of injury when such property or adjacent property is used with due care and in a manner in which it is reasonably foreseeable that it will be used" (Cal. Gov. Code § 830). The question before the court was whether the location of the bus stop at DeNormandie and Pacheco constituted a dangerous condition of public property (*Bonanno v. CCCTA* 2003).

The plaintiff's burden of proof was substantial. The plaintiff was asked to prove that 1) the bus stop in question posed a persistent risk, 2) that Bonanno's use of the bus stop was reasonable and in accordance with how a bus stop might be used by others, and 3) that the CCCTA had knowledge of the potential risks posed by the location of the bus stop. The plaintiff's counsel rested its argument on historical facts as well as testimony. Pacheco Boulevard, the plaintiff noted, had always been a busy street. As early as 1980, local residents had complained about the

dangers of crossing it. In 1986, Kimberly Chittock, a local resident, was struck by a car at the intersection of Pacheco and DeNormandie while jogging to catch a bus. Chittock both lodged a complaint and filed a suit against the CCCTA. While Chittock reached a settlement with the CCCTA, the bus stop at the intersection remained in the same place. During the Chittock trial, traffic engineer Thomas Shultz testified that the CCCTA should move the bus stop from Pacheco and DeNormandie to a safer intersection (*Bonanno v. CCCTA* 2001).

The CCCTA's defense focused less on challenging the plaintiff's assertion of the intersection's danger -- which was obvious -- and more on asserting the agency's powerlessness in preventing accidents like those that befell Bonanno. It would be one thing if the bus stop sign or the bus shelter itself collapsed and injured Bonanno, but Bonanno was injured by a car driven by a negligent driver on a property several meters from the bus stop. Since the CCCTA neither owned nor controlled the sidewalk, nor the shoulder adjacent to the bus stop, the CCCTA argued that it was erroneous to suggest that the agency be held liable under Government Code sections 830 or 835. Where these codes held that public agencies could be held liable for injuries occasioned by a dangerous condition of public property, the CCCTA argued that the location of a bus stop failed to meet that criterion (*Bonanno v CCCTA* 2003). Even if the CCCTA wished to remedy the situation by moving the bus stop that would still require the consent and authorization of Contra Costa County -- a wholly separate entity.

The court found this defense lacking. The court ultimately ruled that the location and maintenance of the bus stop on Pacheco and DeNormandie constituted a dangerous condition of public property. Following the Chittock incident, the intrinsic danger of the intersection was well known, yet CCCTA had done nothing about it. In 2003, and after several appeals, the California Supreme Court found the CCCTA liable for Darlene Bonanno's injuries. The court ordered the

agency to pay Bonanno \$1.6 million. The Supreme Court's decision was not without its critics. Not the least of whom sat on the court itself. Judge Marvin Baxter and Judge Janice Brown's dissenting opinions were strongly worded. For Baxter, the view that "location" could amount to a dangerous condition of public property was an "inapposite theory of liability" (Dissenting Opinion by Baxter, *Bonanno v. CCCTA*, 2003, 3). Owners of property, he added, "should not be made to ensure the safety of all persons who encounter nearby traffic-related hazards in reaching their property" (Dissenting Opinion by Baxter, *Bonanno v. CCCTA*, 2003, 3). To make his point, Judge Baxter offered the following hypothetical:

A public entity owns a building with two spaces for rent, located directly adjacent to a crosswalk on a busy street. One of the building's renters is subject to a two year lease; the other rents on a month-to-month. Like the situation here, there are no traffic lights or stop signs at the crosswalk, and the building's location therefore presents a dangerous condition [...]. Under the majority's rule, the public entity owner would escape liability because it could not feasibly move the building. The month-to-month renter likely would be subject to liability because terminating the tenancy and relocating appears to be feasible. The two-year lessee might or might not be subject to liability, depending upon a jury's assessment of feasibility. Thus even though all three defendants appear equally at fault in terms of attracting visitors to the same dangerous location they will not be held similarly accountable (2003, 4).

Judge Baxter argued that the majority's opinion reflected a logical fallacy. Moreover, Baxter also raised a set of more practical worries. By significantly broadening the concept of what constituted a dangerous condition, the court's ruling promised to deplete the already scarce resources available to public entities. Baxter noted that under the rule of joint and severable

liability, agencies like CCCTA and AC Transit might now be on the hook for 100% of the economic damage incurred in tort litigation -- as well as whatever percentage of culpability for non economic damages (2003, 5). In her dissent, Judge Janice Brown reiterated many of the same concerns. Like Judge Baxter, Brown argued that the concept of a dangerous condition ought to be limited to the “purely physical condition” of the property itself -- not its location or geographic context (Dissent Opinion by Brown, *Bonanno v. CCCTA*, 2003, 3). Bonanno’s injuries, Brown asserted, were caused solely by the negligent driver. Judge Brown’s dissent also raised some of the more practical concerns first broached by Baxter. Bonanno’s award of \$1,606,130, Brown noted, was not an insignificant sum -- and especially for a public agency like CCCTA. The court’s decision, Brown noted, would also necessarily function to compel transit agencies across California to conduct costly traffic studies. Both the potential litigation and the cost of avoiding litigation promised to come at an enormous cost to taxpayers and bus riders. While the ruling in *Bonanno v. CCCTA* had expanded the duties of transit agencies to their riders, the consequences of that expansion did not necessarily benefit the average transit rider.<sup>71</sup>

What are we to make of the Bonanno case? The central conflict in *Bonanno v. CCCTA* was over how to define a dangerous condition of public property -- and whether a dangerous condition referred to the faulty condition of the property itself, or whether it instead could constitute the property’s location. This chapter began with a similar question: namely, in the East Bay where do the rights of the riding public begin and the duties of transit agencies end. In *Bonanno v.*

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<sup>71</sup> In 2003, hundreds of transit agencies in California sponsored Assembly Bill 2737. The Bill sought to overrule the majority opinion in *Bonanno v. CCCTA* and to “immunize any public entity or public employee for injuries caused by the location of, the condition of public property not owned by or controlled by the public entity” (Kim 2004). The Bill’s sponsors argued that the majority ruling promised to saddle public agencies with the onerous duty of ensuring the safety of all routes to and from their properties. Public transit agencies like AC Transit would be required to review the egress and ingress patterns of hundreds if not thousands of stops. Where necessary, such stops would have to be moved. While the beneficiaries of the Bill were clear, the Bill also had its detractors. These included the California Nurses Association, The Congress of California Seniors, the Older Women’s League and the Consumer Federation of California. The Bill was never passed (Kim 2004).

*CCCTA*, the court's answer was quite clear: the duties and liabilities of transit agencies are not limited to the agency's property, but instead they extend to adjacent properties as well. As the dissenting judges remind us, however, this quite literal expansion of duties into the space around the bus stop comes with costs that are far from trivial. As became clear in my discussion with AC Transit's senior planner, cases like *Bonanno v. CCCTA* have raised a number of new logistical concerns for transit agencies in California (Senior Planner, Interview, October 13, 2010). Are transit agencies now liable when they place a bus stop in an area known for high levels of crime? Or without lighting? Or in areas of the East Bay where safe passage to a bus stop might only be assured through costly capital improvements to the street itself?

***Lopez v. Southern California Rapid Transit District***

In October 2010, I spent several weekends rummaging through a set of papers housed at the San Francisco State University Labor Archive. These papers were on the Amalgamated Transit Union Local 192 -- the union representing drivers and mechanics at AC Transit. The collection contained everything from strike materials and old transit schedules, to napkins with scrawled doodles. In a folder of material from the 1980s, I came across a unique clipping from what appeared to be a law journal. The clipping made reference to a 1985 lawsuit tried before California's Supreme Court, *Lopez v. the Southern California Rapid Transit District*. The union's interest in this lawsuit was immediately apparent. As with *Bonanno v. CCCTA*, *Lopez v. the Southern California Rapid Transit District* hinged upon the supposedly tortuous act of a public transit agency. In the *Lopez* case, the court was asked to decide whether a public bus company had the duty to protect passengers aboard its buses from assaults from other passengers. In answering in the affirmative, the court held that transit agencies indeed had a duty

to protect passengers from such assaults. The court rested its arguments on California Civil Code section 2100, and a complex reading of the “special relationship” doctrine.

After sustaining injuries on a bus operated by the Southern California Rapid Transit District (SCRTD) Carmen and Carla Lopez, Yolanda and Jose de Dios Lopez, and Zenaida Arce brought suit against the SCRTD seeking damages. While the plaintiffs were on the bus, a group of juveniles began harassing passengers and a violent argument ensued. Though the bus driver was notified of the altercation, the bus driver took no precautionary steps to address the conflict. What began as an argument escalated into a violent conflict at which time the plaintiffs were injured. Given that the particular route on which the plaintiffs were traveling had a well recognized history of violent conflicts, the plaintiffs claimed that the SCRTD “negligently operated, owned, maintained, supervised, entrusted, inspected, controlled, and drove the bus so as to allow passengers involved in a violent argument to engage in a violent physical fight” (*Lopez v. SCRTD* 1985, 1). More specifically, the plaintiffs argued that the actions of the SCRTD violated California’s Civil Code section 2100, a law stating that “a carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill” (Cal. Civil Code § 2100).

In its defense, the SCRTD cited California Government Code sections 845, 820.2 and 815.2 -- all of which grant public agencies some degree of immunity from liability. Section 845, for example, asserts that public agencies in California cannot be held liable for failing to “provide police protection service” (Cal. Gov. Code § 845). Similarly, sections 815.2 and 820.2 assert that public agencies in California cannot be held liable for injuries sustained due to an act of omission -- i.e. doing nothing to stop a fight (Cal. Gov. Code § 815.2; Cal. Gov. Code § 820.2). The

general principle undergirding such laws is a simple one: namely, that a public agency should not be held accountable for failing to protect members of the public from third parties.<sup>72</sup> From the perspective of the Lopez counsel, the legal particularities of the transit industry itself created an actionable liability.

Ultimately, the Supreme Court agreed that the SCRTD driver was not duty bound to call the police. The court did suggest, however, that the SCRTD could have certainly taken an alternative action that may have gone some way to prevent the injuries sustained by Lopez. Most importantly, the court argued that Government Code section 2100 was explicit in its demand that common carriers show the utmost care in transporting passengers. Such care, the court ruled, included taking action to stop a fight. The court based this decision on its finding that bus transit itself presumed a “special relationship” between passengers and drivers, and that such a “special relationship” compelled transit agencies to protect members of the public from third-party assaults (*Lopez v. SCRTD* 1985).

Legal scholars define a “special relationship” as one in which a public or private entity voluntarily assumes a protective role and induces reliance on it (Dunn 2008, 1). Such special relationships are quite common. These include: the relationship between an innkeeper and his or her guests, between a police officer and a prisoner in custody, between a landholder and his/her guests, or the relationship between a psychiatrist and his/her patients. While public agencies generally have no duty to protect members of the public from third-party assaults -- as this duty would be quite burdensome and costly -- this does not hold where courts find that a special

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<sup>72</sup> In its defense, the SCRTD also cited a set of more practical concerns. The SCRTD argued that nothing short of an armed security force might assure that riders remain safe at all times. With 220 bus lines and 2000 buses, the defense complained that protecting passengers from each other promised to be an onerous, if not an impossible, task (*Lopez v. SCRTD*, 2).

relationship exists. In the Lopez case, the Supreme Court not only ruled that the SCRTD had violated California Civil Code section 2100, but they sustained this ruling after finding a special relationship between passengers and drivers. In defining the relationship between passengers and drivers as “special,” the Supreme Court’s majority opinion reiterated the opinion of the appellate court in suggesting that the bus itself might be described as a moving “steel cocoon.” In defining the special relationship, the Supreme Court noted that:

Bus passengers are ‘sealed in a moving steel cocoon.’ Large numbers of strangers are forced into very close physical contact with one another under conditions that are often crowded, noisy and overheated. At the same time, the means of entering and exiting the bus are limited and under the exclusive control of the driver. Thus the passengers have no control over who is admitted on the bus and, if trouble arises, are wholly dependent upon the bus driver to summon help or provide a means of escape. These characteristics of buses are, at the very least, conducive to outbreaks of violence between passengers and at the same time significantly limit the means by which passengers can protect themselves from assaults by fellow passengers. We believe the characteristics of public transportation along with the duty of utmost care and diligence imposed by Civil Code section 2100, provide a more ample basis for designating a special relationship between common carriers and their passengers (*Lopez v. SCRTD* 1985, 11).

In the same way that a police department -- according to the special relationship doctrine -- might be liable for injuries sustained by a prisoner while in their custody, the court’s ruling asserted that transit agencies are liable for the safe passage of their riders and are liable if they get injured even by a third party. Passengers, by the court’s definition, are literally captives of the vehicles they alight. While such a metaphor may seem strange, it partially explains why the

Lopez case mattered to the ATU Local 192 and AC Transit -- whose drivers were now akin to prison guards. Fights at AC Transit were common and so the court's ruling was particularly notable. The case also stands in odd relief to the case of Bonanno. Where in the Lopez case, the court suggested that the geography of the bus itself gave rise to a new set of duties, in the Bonanno case the courts ruled that these duties ostensibly continue to extend beyond the bus itself and into adjacent properties. The very distinction upon which the courts decided *Lopez v. SCRTD* -- the entrapment of passengers in a steel cocoon -- only adds complexity to the already complicated geography of liability evidenced in *Bonanno v. CCCTA*. Not only do transit agencies have a duty to protect riders against third parties inside the bus, but also that duty now extends beyond the bus, and beyond the bus stop as well.

## Conclusion

Nearly a century ago, Wesley Hohfeld (1919) set forth a schema through which he believed most if not all legal problems in jurisprudence might be stated and solved. In that schema, he focused on the distinction between four types of rights. These were claim rights, liberty rights, immunities, and powers. He also identified four corresponding juridical correlatives. These included duties, "no-rights," liabilities, and disabilities (Wenar 2011).<sup>73</sup> At its most specific, Hohfeld's goal was really a simple one. Hohfeld was interested in providing a practical way for lawyers and judges to address some of the challenges of legal decision making. In contrast to the

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<sup>73</sup> In this schema, to have a claim right is to be owed a correlative duty and conversely, to have a liberty right is to be free of any duty (the correlate of liberty being a "no-right"). Legal powers and legal immunities are what some have labeled second order rights (Wenar 2011). Such rights differ from claims and liberties in that they allow individuals to alter or change broader legal relations. Thus, to have a legal power is to have the ability to make another liable, whereas to have a legal immunity is to be free from liability. Using Hohfeld's schema, some scholars have gone on to argue that what we consider to be a single right is actually a collection of Hohfeldian rights (Wenar 2011). For example when I say I have a right to property, it may imply that others have a duty to refrain from using my property, or that I have a liberty to use it as I see fit, or that I have the power to sell it, or that I am immune from its taking by the state.

often emotional and uncritical “hand-waving” associated with “rights-talk,” for Hohfeld, it was important for judges and others in the legal profession to be able to specify exactly the type of right at issue and to connect that right to a correlative duty. Of course, Wesley Hohfeld was not a geographer, nor to our knowledge was he interested -- as I am -- in the geography of urban transportation or legal debates over transit policy. Nevertheless, his general argument bears repeating. Namely, the ways in which judges decide cases and the ways in which lawyers argue for the interests they represent, often rest on how each define and assign rights and duties. The cases cited in this chapter expand on this general argument by focusing on the “where” of those same rights and duties.

Thus far, this chapter has focused on three court cases in California in which judges have been asked to parse the rights of transit riders against the legal duties and responsibilities of transit agencies. In the Darensburg case, for example, the MTC stood accused of both violating the civil rights of AC Transit’s minority bus riders and shirking its duties as a public agency not to discriminate on the base of color, race or national origin.<sup>74</sup> Apart from a set of technical debates over various funding streams, in many ways, the case hinged upon two very different geographic conceptions of transit. The MTC’s approach to transit policy was necessarily a regional one. Its primary interests were in regional integration and global competitiveness. From Sylvia Darensburg’s perspective, matters of regional integration and global competitiveness meant very

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<sup>74</sup> The Darensburg case, as has been noted, was far from unprecedented. A similar set of suits had been filed by minority transit riders in both Los Angeles and New York. These cases were buttressed by the work of numerous legal scholars and organizations. In the Bay Area these include the legal writing of people like Kevin Siegel (1997), as well as the work of organizations like Urban Habitat and Transform. To that list we might also add writers on the national stage like Mathew Dombroski (2005) and Sean Seymore (2005), both of whom have written on issues of transit equity and the role of the courts in addressing transit injustice. In his essay, “Securing Access to Transportation for the Urban Poor,” Dombroski even takes the time to explore the possibility of a constitutional right to transportation. The fact that scholars might appeal to the law and to the language of rights to demand transportation justice, ought to be understandable. Rights, in particular, are a central tool in ensuring the dignity of minorities in the face of democratic majorities (Dworkin 1977). Transit riders in many cities are often numerical minorities and so this notion of rights is particularly important.

little. For her and many minority riders in the East Bay, the MTC's representation of transit in the Bay Area belied and obscured a far more complex reality. This was a reality of a "separate and unequal" transit system and a reality in which minority bus riders played second fiddle to their white and more affluent regional neighbors. In 2010, a slightly different debate over transit equity erupted at AC Transit itself. In the wake of a looming budget crisis, the central question before the agency's board of directors was whether certain routes deserved Title VI protection or whether, as board member Greg Harper suggested, such a distinction belied a far more complex reality. In one view the purpose of Title VI lines was fairly self-evident. Such lines made sure that traditionally disadvantaged groups were not disproportionately affected by service cuts. In another view, however, the designation simply directed money from more profitable and efficient routes to less efficient ones -- ignoring the fact that many AC Transit riders need multiple routes to make a single trip.

In the last half of this chapter we focused on two cases dealing with torts and personal injury. In the case of *Bonanno v. CCCTA*, judges were asked to determine whether the location of a bus stop constituted a dangerous condition of public property. This legal designation mattered in determining if public agencies like AC Transit could be held liable for the injuries of passengers attempting to reach a bus stop. In *Bonanno v. CCCTA*, judges were asked to weigh competing views of how far the duties of transit agencies ought to extend spatially -- whether they should only extend to the agency's own property or whether they ought to extend to neighboring properties. The answer from the courts was that location could constitute a dangerous condition of public property, and that the duties of transit agencies extended to those neighboring properties. Lastly, the chapter looked at the case of *Lopez v. SCRTD*. In this case, Plaintiff Carla Lopez and others sought damages from the SCRTD after being injured when a fight broke-out on

their bus. At issue was whether Lopez and the other plaintiffs were entitled to damages. The Lopez case hinged upon two entirely different conceptions of the bus itself. From the perspective of SCTD the space of the bus was no different than any other public space. It was no different than a public sidewalk or a public park. In this view the SCRTD driver had “no duty” to protect Lopez from other passengers. Such a duty, they argued, would be an onerous one. From the perspective of the plaintiff, however, the space of the bus was something else altogether. For the plaintiffs the bus was a “steel cocoon” and a prison in which entry was controlled by the driver. In this space the driver had a “special relationship” with the passengers a relationship which thus compelled special duty to protect riders from each other.

In *Darensburg v. MTC*, in *Bonanno v. CCCTA*, in *Lopez v. SCRTD*, and even in the debate over AC Transit’s Title VI lines, the question has been about how to delimit the rights of transit riders and the duties of transit agencies. It has also been about where on the map, or in the street or around the bus itself, those duties and rights apply.<sup>75</sup> Of course, questions remain. Namely, what should we make of these cases? What do they tell us about how courts view transit? And what, given this dissertation’s focus, do they tell us about the idea of a “right to the city”?

Part of the answer to these questions can be found in the writing of geographer Nick Blomley and legal scholar Joel Bakan. In their essay “Spacing Out: Toward a Critical Geography of Law,” Blomley and Bakan (1992) argue for greater links between geography and jurisprudence. Throughout their essay they focus on the often unacknowledged role that space and geography play in legal thought and practice. In particular, they focus on “representations of space.” Legal

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<sup>75</sup> In the cases cited here, courts have been asked: What are the rights of riders inside the bus? Do transit agencies have a special duty to their passengers? Can the location of a bus stop constitute a dangerous condition of public property and thus confer right to those approaching the bus stop? Do AC Transit riders on Route 26 have more of a right to transit service than those on the 14? What does it mean to describe a bus as a moving “steel cocoon”? And how should the MTC understand its duties to riders in the East Bay versus its duties to regional integration?

thought, they argue, is rife with such representations -- whether these are representations of the home, or the workplace, or of the difference between public and private space. Blomley and Bakan's point is that such representations matter. They matter for how legal decisions are made (1992, 687). The distinction that courts make between a private workplace and a public domain, for example, is not only one of representation, but one that also matters deeply for whether workplace injuries are tried under criminal law or under the Federal Occupational Safety and Health Act (OSHA).<sup>76</sup> In many ways, the cases cited in this chapter do nothing but reinforce this point. In *Lopez v. SCRTD*, the representation of the bus as a "sealed steel cocoon," was central in the court's decision in favor of Lopez. Similarly, in *Bonanno v. SCRTD*, the representation of a bus stop as a dangerous condition of public property ultimately made it possible for Bonanno to collect compensation.

In "Spacing Out," Blomley and Bakan make an even larger point. Not only do many legal arguments rely on particular representations of space, but also "these representations are necessarily conditional and partial" (1992, 670). Such representations are open to debate and protest and are fundamentally sites of struggle. So far in this chapter, little doubt has been cast on this very point. Whether in *Darensburg v. MTC*, *Bonanno v. CCCTA*, or *Lopez v. SCRTD*, such cases have all largely hinged on competing and partial representations of urban space -- if not partial representations of the lives of people like Sylvia Darensburg. Building on this point, Blomley and Bakan make yet another important assertion. And that is about how to engage the

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<sup>76</sup> As an example, Blomley and Bakan (1992) cite legal debates over the application of federal occupational and health safety law. For example, when an employee is injured or killed in the workplace due to unsafe working conditions, the question before the courts has been whether the employer is liable under local criminal law or under the rules stipulated under OSHA, which are far more lenient. Many courts have chosen to try employers under OSHA rather than criminal law. As Blomley and Bakan show, they justify this decision by drawing a sharp and rather arbitrary distinction between the workplace and the community, between private and public space, and between where the rights of citizens end and where the rights of workers begin. By relying on such renderings of space -- whereby the work place and the local community are seen as autonomous units -- OSHA and the courts have allowed employers to insulate themselves from criminal suits.

courts in the name of justice. Where particular representations of space function in the courts to promote injustice, Blomley and Bakan argue that “alternative legal maps can be constructed to challenge those that are dominant” (1992, 670).

This dissertation is, in part, about alternative representations of urban life and urban space. In particular, the focus has been on the alternative representations that are implicit in the idea of the “right to the city.” The question, of course, is where, if at all, might the idea of the right to the city fit within the more technical legal debates explored here. It is certainly hard to imagine litigators like Bill Lann Lee suddenly quoting Lefebvre or David Harvey. It is equally hard to imagine judges like Marvin Baxter or Elizabeth Laporte -- gavel firmly in hand -- suddenly speaking seriously about a plaintiff’s rights to the fete or to urban revolution.<sup>77</sup> Nonetheless, the notion of the right to the city is not without value. If anything, its value is precisely in its ability to offer to the courts and to judges yet another representation of space and urban life. Where judges must weigh between reasoning that sees transit as essential to global competitiveness or reasoning that conversely sees it as essential to the transit dependent, there is an opportunity for the idea of right to the city to offer justification for the latter view and a geographic language through which to express that idea. It would emphasize the importance of transit for democratic participation. It would emphasize the need for cities to better accommodate the poor, the transit dependent and the otherwise marginal. It would emphasize the degree to which such accommodation is central to the quality of public life and the quality of democracy in cities (Mitchell 2003; Mitchell and Heynen 2009; Lefebvre 1996; Attoh 2011). While this may appear

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<sup>77</sup> While the general emphasis among those who support the “right to the city” idea is to expand the rights of the marginalized, it is not clear that expanding rights of the marginalized under tort law is at all beneficial. Expanding the definition of a “dangerous condition of public property,” or of defining the bus as a steel cocoon, may be welcomed by the personal injury lawyer, but it means something else entirely for those who wish to improve transit. As Judge Baxter (2003) argued, expanding such liabilities will only spell hardship for an already marginal transit ridership. It is similarly unclear how the broad conceptions of urban life implicit in the right to the city idea might bear on the idea of Title VI Lines.

a rather utopic, if not overly broad, representation of the city, the point is that such representation is no less utopic, peculiar, or partial than those that already creep into court room debates.

Lest we forget, in the case of *Bonanno v. CCCTA* we encountered a vision of urban life in which a bus stop was not a bus stop but rather a “dangerous condition of public property.” In the case of *Lopez v. SCRTD*, we encountered a vision of urban life in which a bus was not a bus at all, but rather a moving “steel cocoon.” In *Darensburg v. MTC* we encountered a vision of urban life in which the experiences of riders like Sylvia Darensburg were all but invisible. In comparison to such admittedly partial and incomplete representations of urban space, at a minimum, the idea of the right to the city has the benefit of demanding a more robust representation of what cities are about-- such a representation would surely include a more fully fleshed picture of riders like Sylvia Darensburg.

Of course, the lessons of *Darensburg v. MTC*, *Bonanno v. CCCTA*, and *Lopez v. SCRTD* ought to be clearest for transportation geographers. The central lesson, in fact, should be quite apparent. Transportation geographers owe it to themselves to pay attention to the law and legal debate. As the cases above indicate, even the question of where in the city to place a bus stop can involve an inordinate amount of legal debate over the definition of a “dangerous condition” of public property. As one AC Transit planner recounted, such debates can ultimately matter for which populations are served and for which areas of neighborhoods are transit-accessible:

Let’s say there is a senior citizen who asks for a bus stop in the hills and we are going to look at it and we’re like [...] well there’s no safe place for you to get off the bus and no safe place for you to cross the street so we can’t [consider] this anymore (Senior Planner, Interview, October 13, 2010).

Courtroom debates and court room decisions play an important role in shaping the geography of urban transit. What may be less obvious to transportation geographers, however, are arguments like those of Blomley and Bakan -- namely, the degree to which these same court room debates also rest on competing and often partial representations of urban space, if not contradictory geographies of rights and duties.

This chapter began with a question. In the East Bay, we asked, where do the legal duties of transit agencies begin, and where do the rights of the transit riding public end? What the above cases indicate -- is that the answer is quite complicated. The rights of the riding public and the duties of transit agencies are far from fixed. They are, in fact, subject to a great deal of dispute and disagreement. They are contested and contestable. Whether in relation to state tort law or Title VI legislation, disputes erupt not only over how to define the rights of transit riders, or the corresponding duties of common carriers, but as this chapter has endeavored to show, they erupt over competing geographies of where those right and duties arise. These geographies are neither fixed nor immutable and -- following Blomley and Bakan -- they are open to challenge. With all this said, several things ought to become clear. First, the geography of urban transportation has an important legal foundation. Second, that this legal foundation can rest on quite contradictory geographic conceptions of duties and rights. And lastly, that if we wish to use the courts to change those things about the geography of urban transit that we find unjust, then we will not only have to argue about the duties of transit agencies or the right of transit riders, but we will also have to articulate a compelling geography of where those rights and duties apply.

## Chapter Four: Labor Rights in Transit

They call them work rules, we call them working conditions.

-Tony Withington, International Representative Amalgamated Transit Union,  
December 8, 2010.

We don't call each other drivers, we call each other operators -- because any fool can drive a bus -- but it takes skill, experience and diplomacy to be an operator.

-Anthony Rodgers, Amalgamated Transit Union Local 192, November 19, 2010

Contract negotiations between the Alameda Contra Costa Transit District (AC Transit) and its unionized drivers have never been easy. In fact, the triennial process of hammering out the details of wages, benefits and other working conditions has often proved to be downright onerous. Not since 1977, however, have members of the Amalgamated Transit Union Local 192 (ATU 192) resorted to a strike. 2010 threatened to be different. Running a deficit of \$56 million, AC Transit was broke. State aid for transit had dried up, and service cuts earlier in the year had not yielded nearly the amount of savings the agency had hoped for. Moreover, by the end of May, contract negotiations between management and transit operators had stalled indefinitely. Perhaps it is unsurprising then that on June 30, 2010 -- and breaking with over 30 years of tradition -- AC Transit management decided to abandon the process of collective bargaining altogether and simply impose a new contract on their workers unilaterally. In response, on Monday July 19<sup>th</sup>, roughly 200 AC Transit bus operators called in sick.<sup>78</sup> An official strike it

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<sup>78</sup> The timeline of events leading up to the rash of absences on July 19<sup>th</sup> goes as follows: contract negotiations between AC Transit and its workers began on April 1<sup>st</sup> 2010. Despite at least ten state mediated sessions, no agreement was reached by the June 30<sup>th</sup> deadline -- the expiration date for the previous labor contract. On June 22<sup>nd</sup>

was not,<sup>79</sup> but its effects on the riding public were largely the same: indefinite delays, missed connections and overcrowded buses (Lin 2010; Mara 2010).<sup>80</sup>

From the outset, of course, AC Transit's position was quite clear. As one AC Transit board member admitted rather bluntly, "the worst contract I can get [labor] the more service I can put on the street" (Interview, November 12, 2010). More surprising, however, were the responses from those one might otherwise expect to side with the union, namely progressive transit activists like Steve Geller and Joyce Roy -- both longtime members of the progressive Alliance for AC Transit and East Bay Bus Rider's Union. Even they suggested that without labor concessions, AC Transit would be forced to cut service to unrecoverable levels.<sup>81</sup> For Steve Geller, Joyce Roy and surely many other transit riders left stranded at bus stops during the summer of 2010, the problem was not so much the right of labor to collective bargaining, or the right of transit workers to a decent salary, the problem was that those entitlements seemed to run

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the ATU 192 requested binding interest arbitration -- whereby an outside committee would draft a contract. On June 27<sup>th</sup> AC Transit rejected this request. On June 30<sup>th</sup>, having reached the deadline without an agreement, the AC Transit Board of Directors voted to impose their last and final offer. This contract was to be effective starting July 18<sup>th</sup> and would save the agency \$15.7 million (King 2010). At least since 1960 binding arbitration has been the preferred method of resolving labor disputes between AC Transit management and the ATU 192. On June 16<sup>th</sup>, and after an earlier petition by the union, the court compelled AC Transit to submit to binding arbitration. On August 2<sup>nd</sup> and after an earlier and separate petition, Judge Ford ordered AC Transit to return to the previous contract until the arbitration process produced a new one, writing: "the ATU has sufficiently established that AC Transit's imposition of new terms under the 'last best and final offer,'" violated its duty to bargain in good faith and to continued collective bargaining rights under these statutes (ATU 192 v. AC Transit 2010, 10).

<sup>79</sup> Somewhat unbelievably the union blamed the absences on a confusion surrounding system signups. Despite this, much of the reporting on the event assumed the absences were part of a protest (Borenstein 2010; Hudson 2010).

<sup>80</sup> With buses idle and with absences continuing into the week, accusations flew. AC Transit management accused workers of abandoning their duties to "working class riders," students, and the disabled (Lin 2010). Conversely, AC Transit operators and mechanics accused management of negotiating in bad faith. Workers argued that the imposed contract was an affront to decades of collective bargaining and an assault on their rights as workers. How, drivers asked, could they accept a contract that imposed a three year wage freeze, a new two tiered pension plan, one less paid holiday, larger medical co-pays and cuts into operator's overtime compensation (Ishimaru 2010, AC Transit Board memo, 2010b). The President of ATU 192, Claudia Hudson went as far as to argue that the imposed contract was more, "about busting our union than necessarily about saving money" (Interview, December 8, 2010). Both Hudson and drivers like Anthony Rodgers even suggested that management had hoped to provoke a strike like that of 1977 -- a strike in which the union had actually lost wages.

<sup>81</sup> East Bay bus operators, as it was revealed, made an average of \$50,000 a year. They received an additional \$45,000 a year in pension and healthcare benefits (Borenstein 2010). Although not a glamorous job, bus operators, one could argue, certainly made a lot more than many of the bus patrons they carried (see Appendix C: Graphs 4 and 5).

counter to the rights of Oakland's poor and transportation disadvantaged to get to work, to attend school and to access the city in the only way available to them -- through cheap and reliable public transit.

**Joyce Roy:** I think it is true that drivers should be giving more into their retirement. They have also made it impossible for them to hire part-time drivers. And it means sometimes that drivers have a four hour shift and four hours of nothing. I am sort of friends with many bus drivers but I don't bring much of this up because I think that the unions have to do more (Interview, October 11, 2010).

**Steve Geller:** The union needs to ease up a little bit on their demands if they want to have jobs. There was a big demonstration over in San Francisco in front of the federal building. It was put on by a lot of local unions primarily, and the big push there was to try and get some federal funding to subsidize the buses all around the country [...]. Their major interest was not so much the convenience of the bus riders but keeping their jobs, and that's what the union is about and I guess I can't object to that, because that's what unions are for, but I must say that when the squeeze comes down, the people who are squeezed the most are the people that ride the buses (Interview, October 5, 2010).

What are we to make of this? To what degree were activists like Roy and Geller correct in calling on the union to "do more"? How should we understand such conflicts? And what does any of this have to do with geography or the idea of a right to the city? In each of the last three chapters, I have suggested that debates over rights ought to matter for those of us interested in the complex geography of urban transit. Whether I have focused on the courts and legal rights (Chapter Three), or on the challenges rights pose to transit planners and engineers (Chapter

Two), in each case, the argument has been the same-- that rights matter. They matter, I have shown, in debates over everything from where bus stops are placed to the feasibility of new urban transit infrastructure. Across all three chapters we have also argued for the importance of viewing transit policies alongside a set of broader debates over urban citizenship and urban democracy. Transit policies, I have suggested, are important for people's democratic rights to public assembly, to education and what scholars (Mitchell 2003; Harvey 2008) increasingly suggest is our broad and expansive "right to the city." Of course with all this talk about rights, one ought to ask, to whose rights do we refer? Implicit through much of the last three chapters is an argument about the rights of the transit dependent -- or those for whom public transportation is an absolute necessity due to poverty or disability. In this chapter, however, I focus on the rights and responsibilities of transit workers and bus operators. In particular, I examine their demands for better working conditions and higher wages, but also what those demands mean for what transit in a place like the East Bay looks like. At the heart of the chapter are two questions: why do the rights of labor matter for understanding the geography of urban transit? And where do the rights of transit workers fit into a discussion of the right to the city? At its broadest, my argument is that debates over collective bargaining, over varying contract provisions, and over the working conditions of operators ought to be taken seriously by those interested in the idea of a right to the city, and they ought to matter for those of us interested in the complex geography of urban transit. At its most narrow, this chapter argues that the struggles of transit workers for better working conditions are also struggles for a right to the city.

To provide a necessary context, this chapter will review the oft dramatic history of collective bargaining at the ATU 192 -- starting from the earliest disputes at the turn of the century, to the ATU 192's last real strike in 1977. Over the course of the century, East Bay transit workers have

fought and struggled for contracts that secure certain rights and better working conditions. In the first half of this chapter I assess not only what these struggles have looked like, but also the changing political and economic context through which those struggles must be understood. Toward the end, I broach the larger question of how the rights of transit labor fit within broader struggles over the right to the city -- ultimately arguing that they are central.

### **The Carmen's First Contract**

At 3:45 a.m. on May 29, 1906, and by a vote of 510 to 55, the conductors and motormen of Division 192 of the Amalgamated Order of Street Railway Employees of America voted to strike (Union Men Meet 1906, 3).<sup>82</sup> Reports from Grier Hall in downtown Oakland -- where the vote was taken -- told of a room “packed to overflowing with blue coats and numbered badges” (1906, 3). Having just finished their last runs, conductors and motormen that arrived late found themselves standing in the hallway straining “their ears and eyes to keep posted” (1906, 3). President Mahon of the National Carmen's Union had traveled from Detroit for the vote. He was joined on stage by Division 192 President William Ellison and President Cornelius of the Carmen's Union in San Francisco. Letters of support from other unions were read aloud and President Cornelius -- who had recently led the Carmen of San Francisco in a strike -- encouraged those present to keep fighting: “be firm and insist on your rights, and you will surely get them” (Union Men Meet 1906, 3; Vote to Go Out 1906, 16). The vote had been several weeks in the making. In early May, members of Division 192 had, for the first time, submitted a written draft of a working agreement to the president of the Oakland Traction Company and its sibling company, the San Francisco-Oakland-San Jose Railroad (The Key Route). The proposed

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<sup>82</sup> It is not clear when exactly the ATU 192 ceased to be referred to as the Carmen's union. Most likely, this change occurred in the years following World War II. This chapter uses both interchangeably.

agreement included a demand for a flat hourly wage of 27<sup>1/2</sup> cents, a closed shop, and recognition of the union itself (Will not recognize 1906).

The response from the company was a flat denial. Willis Kelley, the general manager at the time put it bluntly: “we have no promises, no concessions [and] no compromises to make.” The company, he insisted, would not cede to a few men its right to “determine how it will conduct its business” (Will not recognize 1906, 1).<sup>83</sup> While the company had softened its position on the union over the previous four years, a written contract was something else altogether. Thus, by the end of May the two sides had reached an impasse. The company itself blamed the discord on the “machinations of a few disgruntled spirits and unscrupulous leaders” (Vote to go out 1906,1). Others believed the strike action to be instigated by competing traction companies like United Railroad and Southern Pacific. The United Railroad company had previously tried to purchase the Oakland Traction Company but had failed. By encouraging a strike, some argued, United Railroad hoped to drive down the company’s stock just enough so that it could buy a controlling interest (Carmen will await 1906, 1). Others pointed to the machinations of Southern Pacific. In the instance of a strike, no company would benefit more than the Southern Pacific Railroad whose ferry service -- in the last several years-- had lost ground to the Key Route’s 20 minute ferry crossing to San Francisco (Carmen will await 1906, 1). Whether the crisis could be traced to a few “bad apples” or rather to the collusion of competing firms, such explanations said little about the nature of the union’s demands itself -- which were substantial. The foremost demand of Division 192 was of recognition. Division 192 had been incorporated by East Bay transit workers in 1902 under the American Association of Street Railway Employees (Car Men

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<sup>83</sup> Even before the votes, the Oakland Traction Company had already begun to take precautionary measures. In the lead up to the strike rumors swirled that hundreds of non-union strike breakers were primed to arrive from as far as Chicago and Los Angeles (Carmen will await 1906, 1).

organizing, 1902).<sup>84</sup> The union's relationship with the company, since incorporation, had been both informal and relatively peaceful. While the company had proven to be fairly responsive to union demands -- raising wages when necessary -- the carmen nevertheless lacked any form of recognizable working agreement, nor any official contract under which they might formally appeal grievance matters. The crisis of 1906 may have begun with a demand for a flat wage, but the sticking point for both the carmen and the company was not wages, but rather the demand for a fixed term contract.

On April 4, 1906, after weeks of tensions and two days of closed meetings with the union, the Oakland Traction Company signed a written agreement with Division 192. It would be the division's first contract. There was no wage increase but the more substantial concession was approved: the recognition of the union and the approval of a one year contract. President Mahon who had traveled all the way from Detroit to preside over the negotiations declared it a victory: "from now on the traction company will recognize our organization. [...] Recognition of the union, such as has been established by the local company, affords the men a far better means of protection than they ever had before"(Wage scale is unchanged 1906, 2). The contract contained fifteen chief provisions.

- 1) Complete recognition of the union
- 2) Discharged employees have the right to appeal for a hearing before the board of directors of the corporation.
- 3) If discharged employee is reinstated as a result of an appeal he is to be paid for the time lost for dismissal
- 4) Officers of the union may obtain a leave of absence not exceeding thirty days when such leave is necessary to perform their duties as union officers

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<sup>84</sup> There are reports that date the formation of Division 192 to 1901, but there is little evidence to substantiate this.

- 5) All employees of the company may ride free on the company cars
  - 6) All employees of the company have a right to join any reputable organization.
  - 7) Demerit register lists must not be made public
  - 8) A day's run of ten or eleven hours must be made in a fifteen hour stretch.
  - 9) Straight runs must be made within twelve hours
  - 10) Trippers working less than one hour will be paid for one hour
  - 11) Regular men will have one day off in ten if desired
  - 12) Bulletin boards for use of the union will be placed in all car houses
  - 13) Motormen instructing students will be paid 25 cents a day extra
  - 14) Men may purchase uniforms in the open market
  - 15) The present wage scale will remain effective until January 1 or July 1 1907
- (Strike prevented by concessions 1906, 13; Carmen gain victory, 1906, 1)

Where none had existed before, the contract served to codify and secure for the carmen of Division 192 a specific set of entitlements and rights. It outlined a clear set of procedures by which motormen and conductors might address grievances and it introduced new and actionable protections into the workplace.<sup>85</sup> To borrow from philosopher Henry Shue (1980), the new contract established a set of “moral minimums” designed to protect workers from exploitation. Against the demands of shareholders like industrialist Francis Borax Smith-- who had been the primary developer of the Key System-- and against a competitive marketplace geared toward

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<sup>85</sup> Many of the provisions outlined in the carmen's first contract appear in most labor contracts irrespective of the industry. These include provisions on wages and the use of company property. Other provisions, however, are more particular to the transportation industry. Provisions restricting operators from working a spread of over fifteen hours, for example, are quite specific to the transportation industries. Many provisions in the 1906 contract of Division 192 employees, in fact, remain a part of the current contract. Apart from limits on spread time, or the use of company property, benefits for conductors and motormen like free travel on Key Route trains and ferries are still part of the contract.

driving down wages and extending the working day, a contract was an important protection. Speaking at Grier Hall on the night of the strike vote, then secretary of the State Labor Federation, James Bowling captured the zeitgeist in no uncertain terms: “ The trade unions stand between capital and slavery, and only by them can we hope for any freedom. [...]. We belong to a union because we hate something and love something. We hate oppression and love liberty. Let us continue to show that we intend to uproot the one and demand the other” (Union men meet 1906, 2). In 1906, East Bay transit operators won a set of rights -- the most important being recognition.

### **The Oakland Streetcar Strike of 1919**

Disputes over the rights and working conditions of East Bay transit workers have not always been peaceful. In October of 1919, the carmen of Division 192 grabbed national headlines in a strike notable for its violence (Strike terror grips Oakland 1919). Starting on October 1<sup>st</sup>, and in the span of several days, what had begun as a not unusual labor dispute over working conditions, quickly evolved into a city-wide riot leaving six dead and 140 people injured (Five shot in Oakland riots 1919,1; Mass Meeting in Oakland 1919,1).

As had been partly the case in 1906, the conflict in 1919 was over working conditions. The chief demand of the union was an eight-hour work day. At least since 1906, carmen in Oakland and the East Bay had been expected to work anywhere between ten to twelve hours a day (Traction men give demands 1919). Additionally, if a car man happened to work a split run, as was common, it could mean a workday of up to fifteen hours. As the union was quick to point out, such long hours far exceeded those worked by carmen in cities like Boston, Portland Seattle, Chicago and even San Francisco. In such cities an eight-hour workday was already the norm

(Traction men give demand 1919). Having failed to impress this point upon their employers, the carmen of Division 192 called a strike on the morning of October 1<sup>st</sup>. Thousands of East Bay residents prepared for the worst.<sup>86</sup> In preparation, Oakland's Mayor John Davies took the auspicious step of offering jitney licenses to anyone wishing to apply (Workers will make decision 1919). Similarly, special efforts were made by the Southern Pacific Railroad to increase ferry service to San Francisco (Key Route men out 1919, 16). The company, for its part, not only vowed to resume service on October 4<sup>th</sup> without unionized workers but it also took the aggressive step of securing a federal injunction against the union. Perhaps in light of the chaos of the Seattle General Strike only eight months earlier, or the increasing specter of labor radicalism, the court's injunction was wide-ranging -- prohibiting "speeches of intimidation," "trespassing" or using "abusive language to persuade any employee of the company from performing their duties" (Federal judge 1919). On October 4<sup>th</sup> and 5<sup>th</sup> the injunction would have little effect. Throngs of carmen and their supporters emptied into the street intent on preventing streetcars from operating and intent on finding and harassing the many strikebreakers that had come from Los Angeles, Portland and Seattle to take their jobs.

Over the next seven days, it is fair to say that the streets of Oakland belonged to the striking carmen of Divisions 192 (Eight hurt 1919; Federal judge 1919). By October 4<sup>th</sup>, attacks on strikebreakers had gotten bad enough that many of them had been moved from the city's downtown hotels to a ferry boat docked off the Key System pier (Strike lasting ten full days 1919). Clashes with the police were common. On October 4<sup>th</sup>, when the company attempted to run its first streetcar through downtown Oakland, it was met by riots, shouting crowds and

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<sup>86</sup> The actual strike vote took place on September 28<sup>th</sup> with the union voting 1008 to 16 in favor of a strike. It was only on October 1<sup>st</sup> that the last attempt by the company to offer arbitration was formerly rejected ( Strike lasting for ten full days 1919)

bricks. Even while flanked by armed police patrols, the streetcar was only able to make two trips on its first day back in service. The riots became particularly fierce at the corner of Thirteenth and Webster after police escort George Underwood fired into the crowd -- injuring two striking carmen (Eight hurt 1919, 1). On October 6<sup>th</sup>, perhaps the worst day of the strikes, riots broke out on Broadway, Washington, 12<sup>th</sup> and 13<sup>th</sup> streets (Strike lasting for ten full days 1919). At Alice and 13<sup>th</sup>, Police Captain William Wood and five others were injured after police escorts began trading fire with protestors (Five shot in Oakland riots 1919, 1). Apart from pelting police escorts with stones, efforts to impede the progress of strike-breaking streetcars also took other forms. There were reports, for example, that strikers had placed a stolen steam roller on the tracks at 24<sup>th</sup> Avenue and East 14<sup>th</sup> (Eight hurt 1919) and that in other instances strikers had used automobiles as barriers.<sup>87</sup> By October 8<sup>th</sup> the situation had gotten so severe in Oakland that the general manager of the Key Route sent a telegram to then Governor William Stephens, requesting that he “furnish whatever force may be necessary to establish order in the city of Oakland” (Night Wise, 1919).

Heeding the requests of the national union, the Oakland streetcar strike ended on October 11<sup>th</sup> when the carmen of Division 192 voted to submit their demands to an independent board of arbiters (Strike terror grips Oakland 1919). The strike had been costly. A full eleven days after it began, carmen had lost \$55,000 in salaries, the traction company had lost \$155,000 in revenue and 140 people had sustained injuries (Traction platform men approve plan 1919). From the perspective of the carmen it may have seemed a total loss.<sup>88</sup> Ultimately, the arbiters would side

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<sup>87</sup> The greatest number of fatalities occurred on October 7<sup>th</sup> when six people were killed after a streetcar collided with an automobile. There were rumors that the brakes of the car had been tampered with (Speeding train hits auto 1919).

<sup>88</sup> In retrospect, the demands of the union in 1919 actually appear quite bold. In addition to an eight-hour day, they had also demanded a spread time for split runs of 10 hours, a minimum pay for men working the extra board, and

with the company and reject the carmen's chief demand for an eight-hour day. The company, the arbiters argued, simply could not afford it (Key Route men told why 1919, 16 Carmen win 1920,1; Another East Bay Car Strike 1920, 3; Oakland car strike ended 1919, 10).<sup>89</sup>

Despite this, and in retrospect, the strike had obviously succeeded in other ways. For one, it succeeded by demonstrating the growth of a certain post-war labor militancy in cities.

Nationally, 1919 was a high water mark with respect to strikes; the number of workers involved in work stoppages would be the highest recorded until 1946 (Siedman 1953). The streetcar strike of 1919 also served as an illustration of a maturing labor solidarity. Over eleven days of unrest, the carmen had been joined in their fight by thousands of other workers. These workers, like the carmen themselves, believed that an eight-hour work day was a just demand. Moreover, they believed that a win for the carmen was a win for themselves. Near the height of the unrest, and after several reports of police brutality, leaders of the Central Labor Council, the Metal Trades Council and the Building Trades Council had pledged their support for the striking carmen by threatening to issue a call that their workers take up arms (More rioting in Oakland 1919, 1). Similarly, on October 10<sup>th</sup>, the quite radical Electrical Workers Union No.283 not only pledged their support for the carmen but threatened a sympathy strike -- promising to blackout the entire East Bay.<sup>90</sup> If the strike had failed to secure the carmen an eight-hour workday, it had succeeded in demonstrating the potential power of labor to bring the city to a halt.

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70/30 straight to split run ratio. Just as a comparison, bus operators in 2010 could only count on an 11 hour spread and 60% straight runs (Carmen Win 1920; Summary of Savings 2010).

<sup>89</sup> Between 1912 and 1919, the Key System paid no dividends to its shareholders, operating revenue dropped by \$272,000 and starting in the early part of 1919, the company was in default on several bonds. ( Key Route men told why 1919,3) An eight-hour day, the board argued "would make it impossible for the company to maintain its current standard of service," to keep fares low, to pay workers a "fair living wage", to meet its bottom line, and for the company to adequately deal with peak hour loads (Carmen win 1920,1; Another East Bay Car Strike 1920, 3; Oakland car strike ended 1919, 10)

<sup>90</sup> The carmen's decision to arbitrate meant that a blackout would not be needed.

As with the crisis in 1906, the question was: what ought to constitute the rights of transit workers in the East Bay? Pointing to numerous other cities in which transit workers enjoyed more limited hours of work, the carmen's strike in 1919 was based upon the belief that an eight-hour workday ought to be a right. Not only that, but the carmen believed that it was a right worth \$55,000 in lost wages, that it was worth the cost of public inconvenience, and that it was worth potential bodily harm. For the Central Labor Council, it was a right worth sanctioning their 50,000 workers to join in the struggle. Similarly, for the electric workers of Division 283, the carmen's right to an eight-hour day was a right worth shorting the entire city. While the carmen would have to wait until 1925 for a provision guaranteeing an eight-hour day, the seeds of that provision were planted in 1919 and through a great deal of tumult (Key Carmen win 1925, 1).<sup>91</sup>

### **The 1946 General Strike and the 1953 Key System Strike**

The longest recorded strike of transit workers in the East Bay occurred in 1953, lasting 76 days.<sup>92</sup> As in 1919, members of Division 192 found themselves at loggerheads with management over working conditions -- this time over wages. Of course, a great deal had changed in transit between 1919 and 1953. The ownership of the Key System had switched hands. It was no longer a part of Francis "Borax" Smith's East Bay empire, and instead, by 1953, it was firmly the property of National City Lines, a company headquartered in Chicago.<sup>93</sup> Moreover, by 1953

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<sup>91</sup> In 1925 the carmen of Division 192 would win both an eight-hour workday and a thirteen hour spread time restriction. Even in 1925, when these provisions were added, they were fiercely opposed by the company who argued that such a change would "wipe out the entire net income of the economy" and that the burden of the increase "will be passed on to the public" (Key carmen win 1925, 1).

<sup>92</sup> In fact it would be the longest transit strike in US History until the 1983 strike of Philadelphia's SEPTA workers (Robbins 1983, a6).

<sup>93</sup> National City Lines Inc. was a Chicago-based holding company financed by Firestone Tire and Rubber Co., Phillips Petroleum Corp. Standard Oil of California and general Motors (Demoro 1985 120). In 1953, National City Lines operated transit systems in 52 other cities (Stambaugh 1953).

streetcars and ferries were no longer the core of the East Bay transit system at all.<sup>94</sup> Instead, riders in Oakland and Richmond relied on a vast system of diesel buses and several commuter trains. Passengers who in 1919 might have traveled to San Francisco by ferry, could now make that same trip using the Bay Bridge -- a 4.5 miles stretch across the San Francisco Bay with two levels, one for automobiles and another below for Key System trains. In 1919, the Key System's major competitor was the Southern Pacific Company, which ran a parallel ferry service. By 1953, however, and with the post-war automobile explosion already underway, the Key System's major competition was the private automobile. Transit companies like the Key System were, by then, already losing riders and suffering the financial consequences of the new automobile age. Apart from such sweeping transformations, Division 192 had changed as well. In 1906, the contract for workers at Division 192 had fit on one page of the *Oakland Tribune* (Carmen gain victory 1906). By 1953 the contract was at least 50 pages long and included provisions documenting every possible aspect of employment (AC Transit Agreement 1947). The contract read as both a palimpsest of past conflicts, as well as a document of the times. New provisions had been added. The Key System was now a union shop that provided workers sick leave.<sup>95</sup> Senior conductors and motormen -- after a fourteen day strike in 1947 -- now enjoyed a 40 hour week with two days rest (Key System agreement 1949). The eight-hour day, which had caused such a stir in 1919, was by 1953 not only a contractual provision, but a federal law. Real wages had increased as well. In 1916, a conductor for the Oakland Traction Company made 38 cents an hour. In 1953 the hourly wage of bus driver was a \$1.68 -- in real wages that marked an increase of 46% (Board of arbitration 1917, 2).

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<sup>94</sup> Streetcars were eliminated in 1948. Under the ownership of National City Lines, starting in 1945, the management of the Key System slowly began replacing streetcar lines with General Motors diesel buses (Demoro 1985, 122).

<sup>95</sup> Per Taft Hartley, this meant that workers were required to join the union within 30 days of hiring.

Of course, the decades following World War II also saw their fair share of labor militancy. In 1946, Oakland had been ground zero for the Oakland General Strike -- the last general strike in US history. The history of the Oakland General Strike is well documented (Wolman 1975; Steele 1995). The city-wide work stoppage began on December 1<sup>st</sup> after the Oakland Police -- armed with tear gas and gas masks -- disbanded the pickets of striking workers at the Kahns and Hasting's department stores (Wolman 1975, 154). From the perspective of Oakland's labor movement, the interference of the police not only signified an unwarranted attack on the rights of department store workers to strike and picket, but it represented a direct threat to the rights of Oakland workers more generally. After all, if city authorities could blatantly break a wholly legal strike of private workers without repercussions, what would stop them from feeling emboldened enough to do it again? In the following hours and days, workers in Oakland would respond by ostensibly "cripp[ing] the commercial and industrial activities of their community" (1975, 147). Over the course of two days, what had begun as a minor strike of department store workers exploded into a city wide crisis with more than 100,000 workers refusing to clock-in. With respect to the impetus and impact of the Oakland General Strike, the carmen of Division 192 had a central role. Many, in fact, attribute the start of the more general strike itself to the moment Division 192 car man Al Brown abandoned his streetcar in the middle of Broadway and 17<sup>th</sup> street, both refusing to cross the picket line at Kahn's and Hastings and then subsequently encouraging other carmen to do the same. As historian Phillip Wolman (1975, 175) has argued, the Oakland General Strike reflected "a purging of emotions." More specifically, it reflected the pent up demand for wages and better living conditions that had built up during the war. These demands were widespread and strikes were common. In fact, in 1946 alone there were a total of

4,985 strikes across the county, the highest number of strikes recorded in US history (Wolman 1975, 149).

Not only did the Oakland General Strike reflect a broader set of post-war anxieties, but it ultimately succeeded in doing a great deal more. As Wolman argues, the Oakland General Strike laid the groundwork in Oakland for a progressive takeover of the Oakland City Council and a lasting set of reforms to the public sector (Wolman 1975, 174). In 1947 and as a direct outgrowth of the general strike, labor unions like the ATU 192 joined with the Oakland Voters League to support one of the most progressive platforms in the city's electoral history. That platform included: the drafting of a new city charter; a repeal of a regressive city sales tax; an increase in assessments on downtown property owners; a call for city council neutrality during strikes; a repeal of anti-picketing and anti-handbilling ordinances; the creation of a civic unity commission to enforce equality in city employment; a call to maintain local rent control; a call to study the possibility of establishing a publicly owned transit system; an overhaul of the public health services; and lastly more money for public schools, public libraries and public swimming pools (1975,174). The carmen's dispute in 1953, by all accounts, was a more parochial matter. Nevertheless, the events of 1946 and the progressive platform that emerged in its wake would not have been far from memory -- particularly the proposal for a municipally owned transit system. Moreover, the events of 1946 show that the ATU 192 -- having fought for their own rights in 1906 and 1919 -- saw themselves as part of something larger. Just as the electric workers had done in 1919, members of the ATU 192 had shown themselves in 1946 willing to stand in solidarity with other workers, and to do so less out of obligation and more out of the belief that the fight for better working conditions for one was a fight for better conditions *for all*.

The longest transit strike in the history of the East Bay began on July 24, 1953. The chief dispute was over wages. At a \$1.68 an hour, carmen of the Key System rightly claimed to be some of the lowest paid transit workers on the Pacific coast. Their pay of \$1.68 an hour put them eighteen cents below the regional average (Stambaugh 1953). Just across the bay in San Francisco, in fact, operators enjoyed a wage of \$1.89 per hour for doing roughly the same job. After months of negotiations, however, ATU 192 President Vern Stambaugh and the Key System's negotiator Harold Davis had failed to find common ground. While the union had made some concessions on fringe benefits like overtime pay, the Key System's offer of fourteen cents, would not do (No buses in sight 1953, 1). The company had made this increase contingent on a fare hike -- which the union viewed as unnecessary. In addition to refusing the union's demand for a 20 cent increase, the company also refused to have the issue solved by binding arbitration.<sup>96</sup>

By late August, the strike was more than a month old and the public's demand for a solution had become deafening. This took several forms. It took the form of a short lived and roundly ignored Oakland City Council resolution for "limited arbitration." It also took the form of a more engaged effort by East Bay cities to facilitate the bargaining process itself. On August 28<sup>th</sup>, Mayor Clifford Rishell of Oakland took the forward step of convening a group he called the Citizen's Transit Emergency Committee (Compromise fails 1953). The group's aim was to study the wage issue and then offer a fair contract on which both sides might agree. On August 31<sup>st</sup> the committee drafted a settlement that included an immediate fourteen cent wage increase followed by a seven cent pay bump six months later (Compromise fails 1953). Not surprisingly, the recommendation was flatly rejected by the Key System. It exceeded management's offer by

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<sup>96</sup> The company's last best offer of fourteen cents was roundly rejected by the union, which noted that such an increase wouldn't even bring worker's wages up to the regional average. Similarly, the company balked at the union's twenty cent wage demand refusing to submit anything to binding arbitration (Stambaugh 1953).

seven cents and as George Stanley, the manager of the Key System, stated acidly in a letter to Mayor Rishell, it gave, “no consideration to the effect” a wage increase would have on either the agency’s bottom line or the public’s ability to pay higher fares (Stanley 1953).<sup>97</sup>

By September 21<sup>st</sup>, the Key System strike was 60 days old. In terms of length it had surpassed the 1951 record of 59 days held by Detroit transit workers (Key system set length mark 1953). In September, and having exhausted all other means, citizens in the East Bay turned to the courts and to the efforts of one Fred Dubovsky. Described by one-time colleague and later AC Transit General Manager Frank Nisbet as a “curmudgeon that operated out of his house and wore disheveled clothes,” Fred Dubovsky was an elderly lawyer based in Berkeley who, in mid August, took it upon himself to file a lawsuit on behalf of the citizens of the East Bay (Nisbet 2003, 20). His suit argued that the Key System had “an obligation under its franchise to operate public transit whether or not they had a strike” (2003, 28). As an exclusive monopoly and with both fares and schedules set by the Public Utilities Commission, the Key System’s failure to operate transit service not only left the “entire community stranded and in a state of utter helplessness,” but according to Dubovsky, this failure was wholly illegal (East Bay cities seek solution 1953, 2). Despite initial expectations, the lawsuit actually succeeded and through a court ordered writ of mandate, the Key System was ordered to resume service within seven days -- lest it be held in contempt of court and put in receivership. With the union backing the courts, the Key System faced the unenviable choice of going into receivership or returning, head-bowed, to the negotiating table (Nesbit 2003, 30). After resuming negotiations on Tuesday October 5<sup>th</sup>, and after only two days at the table, the carmen of the ATU 192 voted in favor of new contract by a

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<sup>97</sup> Oakland Mayor Rishell subsequently called the Key System’s negotiation committee “a bunch of Charlie Macarthy’s” (Key system under fire 1953).

margin of 759 to 201 – ultimately winning an eighteen cent pay bump (Bay Area’s carmen OK strike end 1953).

The strike in 1953 lacked the violence of 1919.<sup>98</sup> Much like 1919, however, the strike of 1953 evidenced a similar degree of solidarity and public support for striking workers. Efforts by the Richmond City Council to contract out livery services during the strike had been killed by the Chauffeurs Local 923 which refused to sanction its workers as “strike breakers” (New Key peace 1953). Greyhound Bus drivers of the ATU’s Division 1225 made a similar pledge to striking workers, when the business agent of the Division 1225, H.B Markely, assured Vern Stambaugh and the membership of Local 192 that Greyhound drivers would not pick up the slack (Markley, 1953). This solidarity was not only reflected in the actions of other unionized transportation workers, or in Mayor Rishell’s admittedly pro-union “fair settlement,” but in monetary contributions to the union’s strike fund as well-- be it the \$500 it received from the Building Service Employees Union Local 18, the \$25 it received from the Bill Posters and Billers Local 44, or the \$50 it received from the Optical Technicians Local 18791 (Received donations, 1953). Numerous letters to the editor during the strike reflected a good deal of public support for the union, as well as a profound skepticism of the Key System and its parent company National City Lines. Such skepticism was understandable. As a subsidiary of General Motors<sup>99</sup> the company’s commitment to public transit in the East Bay had always been questionable.<sup>100</sup> Apart from its length, the strike in 1953 was important for other reasons. Most importantly, it galvanized much

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<sup>98</sup> Apart from one minor act of malicious mischief against the house of an alleged strikebreaker, over much of the 79 days strike action there was little to nothing to report (Lewis 1953).

<sup>99</sup> In 1949, National City Lines had been convicted in an anti-trust lawsuit alleging that it had conspired with General Motors, Firestone, and Standard Oil to monopolize trade and commerce (Demoro 1985, 128).

<sup>100</sup> As of September 9<sup>th</sup> 1953, the Key System owed the city of Oakland \$1,350,000 for track removal (Daily Knave 1953). The Key System’s unwillingness to engage in arbitration, for many observers might have seemed parallel to its unwillingness to follow through on its agreement with the city of Oakland to remove its streetcar tracks from city streets, having abandoned the operation in 1948.

of the skepticism already attached to the Key System into a popular push for public ownership. Only two weeks into the strike, the sentiment was expressed succinctly in an editorial comment by local resident Sam Gorham: “The Key System is getting too much as is. We should own our own” (Gorham, 1953). His wish quickly came to pass; by the fall of 1960, the East Bay had its own publicly owned transit system.

Proposals for a publicly owned transit system in the East Bay had appeared before -- most notably in the years immediately after World War I (Demoro 1985). It was the strike of 1953, however, that ultimately catalyzed the necessary legislative action to make that public system a reality. Of course, the ATU 192 was quite supportive. The idea of a wholly public bus system in the East Bay, after all, had been a prominent part of the progressive platform that emerged from out of the Oakland General Strike of 1946. Like riders themselves, not only were transit workers in the East Bay frustrated with the Key System, but they also hoped that a publicly owned system might offer a solution to the labor and financial problems that had long come to plague regional transit. More viscerally, both transit workers and the riding public hoped that a publicly owned system might prevent strikes like those in 1953. Of course, as I argue in Chapter Two the development of AC Transit was inextricably linked to a broader history of efforts to solve the postwar urban transportation problem. That remains true. The local development of AC Transit, however, was one that was also clearly linked to wider labor struggles -- most clearly the labor struggle in 1953, and to a lesser degree the progressive platform of labor following the 1946 Oakland General Strike.

### **The ATU 192's Last Strike, 1977**

Following 1953, labor disputes between Division 192 and management erupted in 1960, 1964, 1970 and 1974. These disputes arose over wages, cost of living adjustments and pension contributions. Compared to the marathon work stoppage of 1953, however, these were relatively minor actions. It was not until 1977 that East Bay residents once again saw a strike of comparable significance. The Strike in 1977 is notable for two reasons. It is notable for being the ATU 192's last and it is notable for largely being a failure. With respect to transit in the East Bay, a great deal had changed between 1953 and 1977. By 1977, urban transit in the East Bay was wholly public, serviced by both the AC Transit district and the Bay Area Rapid Transit District.

These changes mattered for transit workers. At one level, by 1977 members of the ATU 192 were no longer private workers but public employees. Similarly, East Bay bus riders were no longer simply paying customers but rather "part owners." Management no longer hewed to a distant corporate board in Chicago; but now was directed by seven democratically elected board members. At the immediate level, in many ways public ownership had benefited workers. When the authority for a district was created in 1955, the state legislation had included explicit provisions ensuring collective bargaining (Nesbit 2003).<sup>101</sup> AC Transit's first contract with the ATU 192 in 1960, in fact, included 43 improvements to wages and working conditions. Between 1960, when AC Transit started service, and 1977 the year of the last strike, not only did real wages for bus operators increase by 53%, but bus patrons in the East Bay enjoyed more service. Between 1960 and 1969 annual bus mileage at AC Transit increased from 19,713,149 miles to

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<sup>101</sup> It was the first public agency in California to include provision ensuring collective bargaining (Nisbet 2003, 33). This was a major and substantive win for the member of the ATU 192. At the federal level such protections would not take effect until 1964 with the passage of the Urban Mass Transit Act's section 13(c).

25,187,613 miles (AC Transit History 1970). This is all to say that by 1977 the operators of the ATU 192 faced a different landscape and a far different set of challenges -- challenges that would come into full view during the strike of 1977.

On November 21<sup>st</sup> 1977, the union voted down AC Transit's last offer by a margin of 697 to 397 and began what would be its longest strike since 1953 (How to negotiate a contract 1977). The strike came after five months of deadlocked negotiations and it centered on two points: pension benefits for retired workers and changes to the pay progression formula for new workers. Instead of new workers taking one year to reach full pay, AC Transit proposed to extend that period to 36 months. The counter proposal from the ATU 192 -- which included a 29 cent wage increase, greater pension payouts and a new Employee's Anniversary Holiday -- in many ways revealed what reporter Mike Libbey would deem both "the unrealistic expectations of the union's 1,883 members" (Libbey 1977) and a certain degree of hubris rooted in the union's past successes. As Libbey wrote, "the workers had become used to winning rich contracts which more than doubled their pay in the last 10 years." As such, the union's hard line in 1977 was not unexpected; they were simply used to winning (Libbey 1977). The strike ended on January 27<sup>th</sup>. While the Union did manage to increase the contract's value from \$10.8 million to \$11.2 million over three years (excluding wages), the gain of \$400,000 in pension benefits and pay progression savings paled in comparison to the nearly \$6 million local union members lost in wages during the strike (Winner/Wagner and Associates 1978). Moreover, the strike actually saved the agency money. While the agency lost \$4.13 million in fares, and contract services, it

saved \$8.7 million in wages, fuel, pension and other costs (Winner/Wagner and Associates 1978).<sup>102</sup>

Many blamed the failure of the strike on the inexperience of then ATU 192 President John Wesley. Wesley, who had been a bus driver himself, had come into the position with high expectations but little experience. His rash decision making, as one reporter put it, was a hindrance (Libbey 1977). Even with more attuned leadership, however, it is not entirely clear the union would have managed any better. The reality of the transit industry had changed, while the union's techniques had not (Libbey 1977). By 1977, AC transit's reliance on local and state tax revenue simply made striking more difficult. With almost 70% of its income coming from local and state taxes, and only 30 % coming from fares, a work stoppage made little dent in the agency's revenues. Whether buses ran or not, tax revenue still flowed in. Suffice it to say, for agencies like AC Transit losing a month's worth of fares, but saving a month's worth of transit operating costs was increasingly a trade worth making (Winner/Wagner and Associates 1977).

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<sup>102</sup> The strike of 1977 was not the first instance in which a labor strike had actually improved AC Transit's financial position. In fact, in a notable 62 day long strike over driver wages in 1974 much the same thing happened and AC Transit's financial picture improved markedly. In the midst of the strike, Lance Williams of the *Hayward Daily Review* wrote:

Each week the AC Transit strike continues the transit district's projected budget deficit of \$4.5 million is reduced by \$125,000. Thus, the 50 day strike has actually improved, on paper, the district's financial prospects by reducing the operating deficit by more than \$2 million. According to a district spokesman, if AC Transit buses had been carrying passengers since the strike began July 1<sup>st</sup> the district would have lost \$325,000 per week. This is because the district's sources of income -- \$10.5 million annually in property taxes and \$4.8 million in gasoline taxes -- are almost \$4.5 million less than the estimated operating expenses for the year. Because the district has provided no service during the strike, these operating losses have not occurred. The district continues to receive income from the gasoline sales tax and other minor sources and when the district board sets the property tax rate later this month the district will also receive funds from that source for the period during which no service is provided (Williams, 1974).

### **Proposition 13**

That 1977 would be the last transit strike waged by the ATU 192 is unsurprising. The strike had largely been a failure. Even if workers had won on more progressive pay progression and a slight increase in pension benefits, they had forfeited a good deal more in wages. By 1978, however, the union was reeling from yet another challenge. In 1978 and through the ballot initiative process, California voters passed the Jarvis Gann amendment. By instituting a property tax cap, Proposition 13, as it was called, was regarded as something of a “taxpayer’s bill of rights.” In real terms it functioned to limit the ability of public authorities like AC Transit to use their taxing power to generate new revenue. Following the passage of Proposition 13, the agency lost \$17 million in subsidies (Wesley 1978). The law not only had sizable impacts on AC Transit service, it also had a major effect on the working conditions of public sector workers. This had been part of its goal. As labor lawyer Harold Coxson (1979, 91) argued, Proposition 13 served “as a warning to public officials and union leaders that tax payers want greater efficiency and productivity for their tax dollars and they want a greater role in government decision making.” The law’s message was clear: that taxpayers were not getting their money’s worth and that public sector unions were partially to blame. As AC Transit bus driver David Lyons -- who began work in 1980 recalls -- the impacts of the law on East Bay transit drivers were wide ranging.

**David Lyons** I came [to AC Transit] in 1980 and that was right after Proposition 13. It had a huge impact -- because at that time 60% of their subsidy revenue and 40% of their total revenue came from property taxes. From my opinion that tax cut mainly benefited the wealthy and the industrial and commercial property [owners]. Part of the response to that tax cut was the initiating of part-time work among bus drivers, which was a major

attack on our conditions and the conditions that workers face. I was one of the last of the full-time class to go straight full-time. Part-timing at the time was a split shift, no benefits at all, just got paid for what you worked, no compensation for being available 13 hours a day and at the same time as there were declining conditions for workers, they began to cut service as well. Just an aside, we had a one year wage freeze as part of our first contract. That wage freeze would have cost me \$1200 a year. My parents home which was affected [sic] by Proposition 13 -- I didn't own a home at that time -- they saved about \$600 from that. So you can see just in one wage freeze alone, if I had owned a home, I would have lost more than I gained. At the same time in 1980 the fares went from 25 to 35 cents and the service began to be cut as a result of Proposition 13 (Interview, December 1 2010).

Proposition 13 was explicitly aimed at reducing California's public sector expenditures. In direct contrast to the progressive proposals that emerged following the 1946 General Strike -- which included proposals to increase public spending for schools, to levy higher taxes on downtown properties and to repeal regressive sales taxes -- Proposition 13 marked a stunning reversal of fortunes for working people in Oakland. According to AC Transit operators like David Lyons, Proposition 13 brought both a loss in wages as well as fundamental changes to working conditions -- most notably the introduction of part-time workers. In contrast to decades of gains, in both wages for workers and service miles for riders, Proposition 13 ushered in a new era for the union and a new era for AC Transit more generally. By limiting the power of AC Transit to levy taxes on real property within the district, both riders and drivers would have to do with less. By 1974, the labor contract for East Bay transit workers had expanded from a one page document to a 74 page tome (AC Transit Agreement 1974). Whereas the rights of East Bay

transit workers in 1906 had included the right to purchase a uniform on the open market, the right to free transportation and the right to a maximum spread time of 15 hours, by 1977 the rights of East Bay transit workers had expanded to include the right to three days of paid funeral leave, the right of workers to three weeks of vacation after five years of service, the right to a cost of living adjustment, the right to eight-hours of work per day and a right to a spread time of no more than 10 hours (AC Transit Agreement 1974). These rights, of course, were not simply the product of management's good will. Rather, they were the products of struggle. In some instance, as in 1919, that struggle was a violent one, spilling out from the meeting rooms into the streets of Oakland. Still in other instances, as in 1977 and 1978, the demands of workers would fall short, run aground by the tides of a taxpayer revolt. However we parse the success of these struggles, there is no doubt that they have mattered for what transit has looked like in the East Bay. In fact, it is impossible to talk about the formation of AC Transit itself without referencing the 76 day strike of transit workers in 1953, or the push for progressive legislation following the Oakland General Strike of 1946. Whether we focus on wage disputes, or the struggle of carmen in 1919 for an eight-hour work day, the lesson for transportation geographers is the same: that labor and labor struggles ought to figure a great deal more in how we study the geography of urban transportation. In taking that lesson seriously, transportation geography might start with any number of questions. How, we might ask, did labor struggles in 1919 or 1977 impact the location of transit hubs in the East Bay? What, we might ask, did Proposition 13 or the introduction of part-time labor at AC Transit mean for AC Transit's spatial extent?<sup>103</sup> In suggesting that labor and labor struggles should matter for transportation geography, of course

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<sup>103</sup> In many ways, the argument for viewing the links between labor struggle and the geography of transit has already been made -- it has been made by transit agencies themselves. In the midst of almost every labor dispute, AC Transit has worked tirelessly to make the link between a vastly constricted transit geography and an overly bloated union contract (Cabantuan 2010a; Recent bus strike 1974).

one can also start more modestly. In fact, one can start with testimony of workers themselves -- workers like AC Transit drivers Claudia Hudson and Anthony Rodgers. For Hudson, whom I interviewed in 2010, not only were workers central to shaping the geography of transit in the East Bay but they were central in shaping that geography in socially just ways. Notably, she recalled the story of the Parchester neighborhood in North Richmond:

The community and bus operators, back in the day, had a relationship -- because it was actually bus operators who fought for their services. One example, I grew up in Richmond, California and I've been a bus operator out of the Richmond division my whole 31 years. There is place called Parchester Village and it was one of the communities where lots of black people ended up buying homes. And so AC Transit used to travel on the outskirts and people in the whole entire community would have to walk out to Giant road in order to catch the bus. It was bus drivers who led the fight to have Parchester Village be serviced actually on their streets (Claudia Hudson, Interview, December 8, 2010).

In arguing that labor struggles are important for understanding the geography of urban transportation, the testimony of drivers like Anthony Rodgers might also be useful. For Rodgers, such a geography is produced by labor itself. Without the skill and experience of workers, Rodgers argued, AC Transit would cease to function. This fact is made apparent by drivers' constant efforts to meet the challenges of scheduling and providing on-time service.

One of the problems that we have is the way they [AC Transit planners] have written the schedules. You talk to any driver out there -- in order to keep those schedules-- if you follow every rule that AC Transit gives you, you will never be on time [...]. In this last

signup I was doing an 18 line. It gave me -- leaving from 14<sup>th</sup> and Broadway to 40<sup>th</sup> and Martin Luther King-- I had 6 minutes. Six minutes from 14<sup>th</sup> and Broadway to the Macarthur BART Station at 40<sup>th</sup> and MLK. A NASCAR driver couldn't do that! Let me take that back, you can do it in six minutes-- if the traffic is clear, if you don't catch any lights and if you don't waste your time picking up passengers. [...]Imagine you are going down the street and someone gets on with a wheelchair, or you get someone from out of town and they need directions, or you get someone with some mobility problems, or you have to kneel the bus to let a senior get on [...]. You know the speed limit that the bus is supposed to make when it's making a turn? 3 to 5 mph. If you actually make every turn at three to five mph, there's no way you're going to make it on time [...]. Now let's say you're 10 minutes late when you get to the end of the line and you have 15 minutes of spot time. That means you only have 5 minutes when you get there and the only restroom you know of at Marin and San Pablo is at the Albany City Hall which is a block away. So you have 5 minutes to get off the bus. Run over to the restroom. Do what it is you have to do and run back [...]. *What's happened is that it's the skill of the drivers that has made the system work.* (Anthony Rodgers, Interview, November 19 2010, emphasis mine)

Rodger's comment is an interesting one, in that it suggests that working conditions in the transit industry itself present, at least one, clear geographic challenge -- namely, that of finding a bathroom. Rodger's larger point, however, was a simple one: that without the skill of transit operators, AC Transit would not function even tolerably. In the absence of finding a causal relationship between the history of labor disputes and where transit agencies decide to place bus routes, the comments of Rodgers and Hudson ought to be sufficient. While they may say little about the historic role of labor struggle in explicitly shaping the geography of transit, they say a

good deal about the need for transportation geographers to acknowledge labor's part in making transit work-- whether that means integrating neighborhoods like Parchester or simply allowing AC Transit to function at all. As a sub-discipline, transportation geography has long aimed at understanding the "spatial relations [...] produced by transportation systems" (Rodrigue et al. 2006). To focus on transit labor is simply to suggest that both the struggles of transit workers for better working conditions and the response to those struggles by management and by policy makers -- are not immaterial to how transportation systems look nor the spatial relations that transportation systems produce. Apart from the need to better parse the geography of such struggles, what is perhaps more critical is what these struggles have meant against a changing political landscape, a changing urban geography, and the new progressive movements connected to those changes.

### **Rights against whom?**

Since 1906, the general function of the ATU 192 changed very little. Like other unions, its role has been to negotiate contracts that secure for its members a set of rights and protections. What has indeed shifted is the context in which those rights and protections are understood and exercised. When the carmen of Division 192 met in Grier Hall in the spring of 1906 to demand recognition and a written contract they were in fact part of the larger unionization push at the turn of the century. Between 1900 and 1905 alone union membership in the U.S. expanded from close to 800,000 to nearly 2 million (USDL 1964). Against the competitive imperatives of capitalists like Francis 'Borax' Smith, the carmen's insistence on a contract was based on the increasingly widespread belief that workers needed a set of guaranteed protections against exploitation. Similarly, in 1919 when East Bay transit workers took to the streets to demand an eight-hour work day, they embodied an emergent labor radicalism characteristic of the years

immediately following World War I. In 1953, when East Bay transit workers struck for 76 days they did so only seven years after their pivotal role in the Oakland General Strike of 1946. In 1953, the ATU 192 could count on a public and civic sphere in which labor was still firmly entrenched.<sup>104</sup>

By 1977, as this chapter has endeavored to show, a great deal had changed. By 1977, members of the ATU 192 were no longer private sector workers but rather public servants. As such, the struggles of transit workers were no longer struggles against transit barons or traction capitalists. Likewise, their demand for higher wages was no longer a demand for profit-sharing. There was no profit to be had. If transit workers demanded shorter spread times or more vacation days, meeting their demands meant greater public subsidies. Rather than managers like Willis Kelley, members of the ATU 192 as workers took general direction from a board of democratically elected officials. Above all, by 1978 one talked less about the rights of transit workers, and more about the rights of taxpayers, the role of public sector unions, and the cost of government.

Just as the streetcar strike of 1919 only makes sense against the backdrop of a broader post-World War I labor radicalism, the so called sickout of AC Transit workers in 2010 can only be understood against the reality of an unabated decline in union power, continued attacks on public sector workers,<sup>105</sup> and the rise of a broader urban progressive activism in which labor and labor struggles are no longer the core. Within this broader progressive activism, I am particularly interested in the idea of the right to the city and similar notions of urban social justice. As will become clear, these struggles have been less about working conditions in a particular industry

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<sup>104</sup> In 1953 over 17 million workers belonged to a union-- 32.3 % of all waged and salaried U.S. workers (Mayer 2004).

<sup>105</sup> Just as in 1978, state legislators across the country drew increasing attention in 2010 to what they saw as the excessive rights of public sector workers, the exploding of pension and healthcare costs, and growing deficits in state budgets. In states like Wisconsin these debates would become quite dramatic.

than about the conditions under which the poor, homeless and others can access and live in the city. In the context of these debates, one might ask where the rights of laborers fit in, and how we might understand unions like the ATU 192.

### **Whose Right to the City?**

Within the last decade, the idea of the right to the city has gained increasing traction among those interested in questions of urban social justice. Drawing on the original work of Lefebvre (1996[1968]), a number of scholars have argued that the concept provides a particularly useful way of thinking about urban struggles. Scholars like Mitchell (2003), Purcell (2003) and Harvey (2008) have all drawn on the concept of the right to the city to criticize urban policies that they argue not only function to displace the poor, or that eliminate the homeless from public space, but that privilege market interactions at the expense of democratic ones. Above all, scholars have employed the idea of the right to the city to defend what Marcuse (2009) calls the deprived and discontented -- individuals who have not only suffered the material indignities of poverty, but who have been excluded from the process of shaping urban life. While issues of transit have not figured largely in the right to the city literature it is certainly not hard to see how transit advocates might find in the concept of the right to the city a useful framework. In places like Oakland, 71.8% of all AC Transit riders have been classified as either “very low income” or “extremely low income” (AC Transit ridership survey 2003). For much of this population, transit is a lifeline to employment, food and the broader community. Thus, whether we define the right to the city as right to public space, to freedom of association, or broadly as the right to participate in urban democracy, for the transit dependent in Oakland, such rights are arguably contingent on public transit.

In his recent book *Searching for Spatial Justice*, Edward Soja (2010) looks admiringly at the work of the Los Angeles Bus Riders Union. As a grassroots organization, the LABRU enjoyed substantial fame following its 1996 victory over the Los Angeles Metropolitan Transportation Association. Its subsequent work to improve the city's bus system has been heralded as a new model for both urban social movements and struggles for urban social justice (Kelley 1996). Such groups, Soja argues, not only epitomize the importance of struggles for "spatial justice" but also fundamentally represent struggles for a right to the city. While Soja focuses largely on the Los Angeles Bus Riders Union, it is not unlikely that he might direct similar praise at Oakland's own Bus Riders Union and similar organizations in the East Bay. What is unclear, however, is where in the literature on the right to the city, or where in the work of scholars like Soja on spatial justice or transit justice we can place the rights of labor.<sup>106</sup> How, for example should we understand the politics of the ATU 192 or other unions alongside the politics and demands of bus riders and bus riders unions? When we argue that public transit is important for securing the rights of the transit dependent to the city, how are we to understand the role of transit workers in that? For transit activists like Joyce Roy or Steve Geller the answer is fairly clear. In 2010, when AC Transit workers called in sick to protest new work rules, Steve Geller and Joyce Roy directed a considerable amount of their frustration at drivers whom they suggested ought "to do more"--whether that meant contributing more to their retirement or more to their healthcare plans. For them, the so called rights of transit workers, if anything, were impediments to better transit service.<sup>107</sup> Why should transit riders support unionized workers who decline to make any

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<sup>106</sup> In many ways the action of transit workers in events like 1946 capture precisely the way in which Lefebvre understood the right to the city -- it was the creation of the fete and a usurpation of urban space in ways that privileged its use value rather than its exchange value.

<sup>107</sup> One example, at the operations level, that clearly shows the degree to which antagonisms can develop between AC Transit operators and riders is the issue of recovery time. In much of the transit industry, drivers are not entitled to a full 30 minute lunch break. Instead schedules are cut for drivers so as to provide them five to ten minutes after every run, to eat and rest. While this time is at least nominally sufficient, it is predicated on being on time. The

contributions to their health care plans, when such contributions are common practice across most industries? How is it in the interest of the riding public to support transit workers' right to a spread time of ten hours rather than eleven or to a guaranteed eight hours on the extra-board?<sup>108</sup> Like many unions the ATU 192, has clear provisions in its contract that give preference to senior workers when selecting pieces of work. The result is that the least experienced drivers are working the most traveled and hardest lines, while the most experienced work routes that are easy and often serve more affluent neighborhoods (Anthony Rodgers, Interview, November 19, 2010). How does this serve the needs of the transit dependent or the needs of the poor? Where transit agencies struggle admirably to deal with peak hour demand, why should the riding public join unions like the ATU 192 in resisting the use of part-time workers?<sup>109</sup> When we invoke the right to the city, or when we take the additional step to argue that public transit is important for the transit dependent's right to the city, it is fair to ask how we understand that right in relation to the entitlements won by transit industry workers. Ultimately, the question is whose rights to the city do we care about, and are those rights commensurable.

### **Reframing the Argument: who is the public?**

There is a great deal to appreciate in the burgeoning literature on the right to the city.

Undoubtedly, it offers an explicit challenge to the blind acceptance of urban policies that

function to exclude the marginal from public space or that limit the ability of disenfranchised

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simple time costs of picking up one or two disabled riders can thus eliminate whatever break a driver is entitled to. While disabled riders have right to transit, secured by the Americans with Disability Act, it can come at the expense of driver's right to a break. Of course, at the financial level economists like Chomitz and Lave (1983) have long noted the costs of restrictive and union friendly provisions on spread time and part-time labor . These provisions have costs, and they are costs, they argue, that are born by riders in higher fares and inefficient service.

<sup>108</sup> The extra board refers to a list of workers who are on call but who are not given regular assignments.

<sup>109</sup> After years of resistance, part time workers began working at AC transit in 1980. After initially fighting for as little benefits for part-time workers as possible—hoping no one would apply, by 2010, the ATU 192 had won benefits for part time workers equivalent to full time workers. Ironically it meant eliminating the costs savings associated with part time workers (David Lyons, Interview, December 1, 2010).

populations to participate in the urban democratic process. Within that framework it is also easy to see why transit policies might matter. What is more difficult, however, are instances where it appears that rights collide -- where the rights of one population to the city might come at the expense of another's. In the context of transit, for example, it is not necessarily easy to simply invoke the rights and struggles of the transportation disadvantaged without addressing what that might mean for the entitlements of workers like those of ATU 192. In the wake of the recent AC Transit workers' sickout in 2010, or when transit activists like Joyce Roy bemoan the generous salaries enjoyed by AC Transit workers, it is not self evident that the rights of workers to the city and the rights of those they carry are commensurable. Neither is it clear that the language of a right to the city does anything to clarify issues, or point us in the right direction. Perhaps the most compelling response to this quandary comes from *The Weekly People*.

In 1946 and in the midst of the Oakland General Strike, the socialist paper *The Weekly People* published a stinging reply to the Mayor of Oakland who had reproached striking workers for endangering the public welfare.

Generally speaking, science has done a pretty good job on pixies, elves, fairies, spirits and similar supernatural imps, not to mention spooks and banshees. But there is one superstition that returns to haunt us no matter how often it is laid with scientific facts and logic. It is the mystic "public." Right now the public is suffering the tortures of the damned. We know this because every capitalist editor in the county tells us so both in screaming headlines and commiserating editorials. Especially is the "public" of Oakland California, suffering. According to the mayor of that city the "public" has been denied the right to "get food, to travel in any form of public transportation, to send their children to school where there are distances to be travelled, to have a daily paper" Resisting the

impulse to let our hearts bleed for the “the public” of Oakland -- and elsewhere -- we move in for a closer look at this mysterious creature which always manages to be right in the middle in labor disputes. Who is the public? According to the editors, the “public” is all of us who are not directly involved in the dispute. Thus in Oakland, where there is a general strike as this is written, the public is the “public.” Well who this hell is left when all the workers are on strike against the capitalist class of a city? [...]. There isn't the slightest doubt that a lot of people suffer when there is a strike. But these people are workers themselves, or the families of workers. They are members of the working class with interests in common with all other working men and women who live on wages ... How convenient for the class of skimmers, if only the workers of this country, when not directly engaged in a skirmish with capital, would think of themselves as the “injured” and “suffering public”! Why, then employers could always count on a free hand in beating strikers to their knees. Nay they could count on pressure from the “public” thinking workers to end the strike and to end on terms favorable to the employer (Rumblings of revolt 1946).

For the editors of *The Weekly People*, the idea of a “long suffering public” missed the point entirely. Striking workers *were* the public and not separate from it. When a striker like Al Brown, for example, abandoned his streetcar, he did so not out of spite for the public interest but on behalf of a public defined in explicitly class terms. Lest the term be co-opted, the editors of *The Weekly People* sought to redefine the idea of the public in terms that emphasized a shared struggle, that erased the distinction between workers and the public they served, and that emphasized the degree to which the rights of workers were more important than a temporary inconvenience. In 1946, the editors argued, it made little sense to talk about the rights of the

public “to get food, to travel on public transportation” as separate from the rights of workers’-- workers *were* the public.

In many ways, this was the same argument voiced by AC Transit workers following their so called sickout in 2010. As ATU 192 President Claudia Hudson put it: “the people who catch the bus, the people who drive the bus, and the people who fix the bus are one and the same” (Interview, December 8, 2010). The riding public and transit operators, she would add, are fighting for the same thing: “they are fighting for transportation dollars to keep transportation public and to keep it available for people to be able to utilize it. We are fighting for the same things but we are also fighting to maintain our working conditions while we provide the service” (Interview, Claudia Hudson, December 8, 2010). The fact the drivers might enjoy generous benefits or that they might make more money than the people they carry was beside the point. As East Bay bus drivers like David Lyons would suggest: generous benefits for public sector workers are valuable not simply because they are generous, but because they set a standard “that other workers can shoot for.” After all, “the best safety for bus riders, is a good contract for workers” (Interview, December 1, 2010).<sup>110</sup>

Service reductions and fare hikes, one might argue, are not the fault of public sector workers. They are the fault of bad policy. They are the fault of laws like Proposition 13 that gutted the public sector in favor of private and commercial property owners. Even if they might disagree momentarily--as during the sickout-- bus riders like Joyce Roy and members of ATU 192 like David Lyons arguably have an equal stake in finding ways to reverse such policies. In direct

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<sup>110</sup> David Lyons’ full quote is a notable one: “I think the failure of class a approach to labor struggle [is a problem] [...]. We do make more than a lot of people we carry, but on the other hand if we lose, it doesn’t mean they gain, in fact it’s usually the opposite. If you try and set a standard that other workers can shoot for, they can point to [you] as they enter negotiations” ( David Lyons, Interview , December 1, 2010)

contrast to the idea that riders and drivers have opposing interests, one need only to look at graphs like those below and the striking effect that Proposition 13 had on both transit worker wages and the cost of transit fare. Between 1960 and 1978 drivers enjoyed real wage gains almost each successive year (Figure 1). During that same period transit passengers enjoyed gains as well. These included a decrease in real transit fares (Figure 2) and an expansion of service miles. Proposition 13 reversed all that. With its passage, not only has service been erratic, but real wages for East Bay transit workers have declined (Figure 1) and real fares (Figure 2) for patrons have increased.<sup>111</sup> Service reductions and fare hikes are not the fault of workers -- they are the result of a clear legislative choice to gut the public coffers. Thus, when ATU 192 President Claudia Hudson argues rather glibly that “the people who catch the bus, the people who drive the bus, and the people who fix the bus are one and the same” (Interview, December 8, 2010) her remarks are not simply for effect. Her remarks are an attempt to acknowledge a shared fate, a shared reality of wage stagnation and a sense that “the people who ride the bus and the people that drive the bus” have both gotten a raw deal.

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<sup>111</sup> The unintended consequence of Proposition 13 has not only been wage stagnation but an increasing reliance of paying workers through credit--namely pension contributions. Of course, when the stock market falters then such pensions investments became increasingly seen as underfunded entitlements (see Appendix C: Graphs 4 and 5).

**Real Wages for East Bay Bus Operators  
(CPI San Francisco-Oakland 1982-1984=100)**

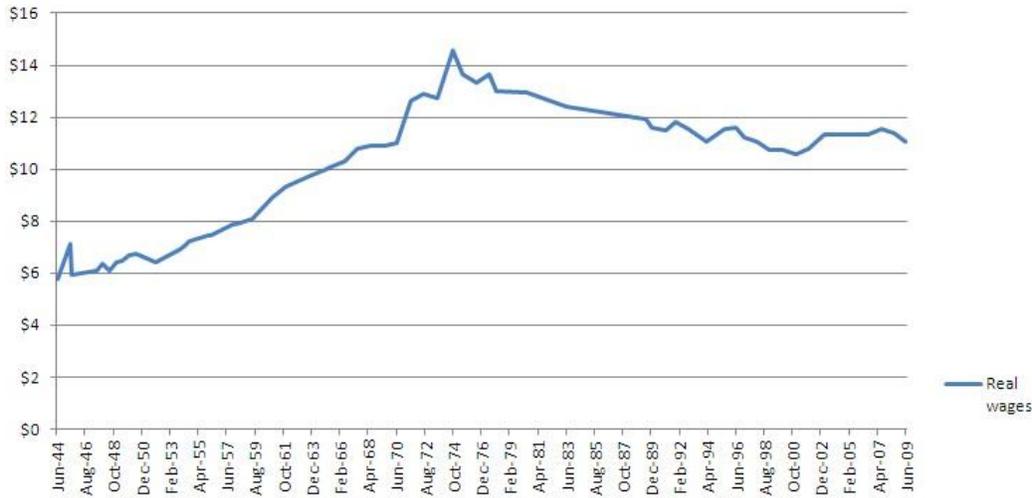


Figure 1. *Real Wages for East Bay Bus Operators*. Compiled from wage data available at the San Francisco State University Labor Archives and Research Center. Amalgamated Transit Union 192, Box 12, Folder 3. By Author.

**Fares at AC Transit  
(CPI San Francisco- Oakland 1982-1984= 100)**



Figure 2. *Real Fares at AC Transit*. Compiled from fare data available at AC Transit, Based on AC Transit's single zone fare -- i.e. the cheapest fare available. By Author.

The ties that bind drivers with those they carry are many. One is simply history. That history is one in which the ATU 192 has arguably been at the forefront of policies aimed at benefiting the poor and the working class. That history includes the ATU 192's struggle for an eight-hour work day in 1919 and its struggle in 1947 for a 40 hour work week. It includes the ATU 192's recent role as a co-defendant in the civil rights lawsuit *Darensburg v. MTC* (Chapter Three). It includes the ATU 192's role in bringing buses to Parchester. Perhaps the high point of that history came after the Oakland General Strike of 1946. In the wake of that strike, the ATU 192 along with other unions were not only central in efforts to repeal anti-picketing and anti-handbilling ordinances but they were central in the effort to: direct more money toward public schools, public libraries and public swimming pools; to overhaul public health services and to create of a civic unity commission to enforce equality in city employment. In each case, the ATU 192 had seen part of its role as both defining the public in class terms and advocating policies that spoke to a conception of the public good (Wolman 1975, 174). Coincidentally, these were policies that most advocates of the right to the city would heartily embrace-- especially efforts to repeal anti-handbilling and anti picketing ordinances. In the wake of sickouts, and of labor disputes like those in 2010, it is easy to bemoan "the long suffering public," especially when that public is comprised of the transportation disadvantaged whose access to the city is already tenuous at best. It is also easy to suggest that such riders' "right to the city" will require public sector workers like those of the ATU 192 to "do more." Against that inclination, however, is a history of solidarity and a set of realities that should remind us of the important links between public workers like David Lyons and the riding public. Against the argument that "resources are scarce" and that therefore the public good must come at the expense of workers' rights, one need only point to a graph of real wages and real fares (Figure 1 and Figure 2) to show that, at least in the

East Bay, such “scarcity” has been created and has been the result of a clear choice to decimate the public coffer. Against the seduction of division, there remains a need to suggest, just as the editors of the *Weekly People* might, that riders like Roy and Geller and drivers like Lyons and Hudson are part of the same public and have a similar class interest in better transit service.

### **Conclusion**

Over the course of the last three chapters I have argued for the importance of rights, and debates over rights, in understanding the geography of urban mass transit. Across these same chapters I have also argued for looking at transit policies in the context of a set of broader debates. These have been debates over urban citizenship, public assembly and the idea of the “right to the city.” Implicit in much of what I have argued, is the idea that transit is central to securing one’s democratic rights to the city and that this is especially true for the transit dependent. In this chapter, however, it is clear that talking about rights in transit entails a great deal more than bemoaning the challenges facing the transit dependent. It also means seriously grappling with the rights of bus operators, the history of collective bargaining and a history of labor struggle. Throughout the chapter I have focused on the ways that such struggles have not only led to better working conditions, but the ways in which they matter for understanding the geography of transit in place like the East Bay. Even more important for me has been the idea that the very existence of these struggles pose new and sometimes difficult questions over how we think about the right to the city. Against the musing of Soja on “spatial justice,” we confront sickouts, transit strikes, stranded riders, inconvenienced patrons, and competing notions of what transportation or spatial justice might entail. Must spatial justice for riders, for example, come at the expense of transit workers’ wages? Alongside the rights of transit riders to access the city, how do we then understand the equally compelling rights of transit workers to an eight-hour day, to spread time

premiums and contract provisions that exclude part-time workers or decent breaks? Against these questions, I have sought to suggest, and only briefly, that it is ultimately not at all difficult to see the struggles of East Bay transit workers as part of the struggle for a right to the city. This is particularly true if one sees drivers and those they carry as having an equal stake in reversing policies like Proposition 13. It is true if the idea of the public is not limited to the riding public alone but to workers as well. It is also apparent once we look at the history of organizations like the ATU 192 -- organizations that have consistently supported or have been on the side of policies aimed at improving the lot of what Marcuse (2009) has called the deprived and discontented.<sup>112</sup> Most importantly, it is apparent once we see that these tactics themselves are a necessary response to the political challenge that lies at the heart of the right to the city idea -- and that is finding ways to deal with ostensibly competing rights and competing conceptions of the public itself.

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<sup>112</sup> The distinction Marcuse (2009) makes between the “deprived” and the “discontented” is a particularly useful designation in this chapter. Originally, Marcuse draws on this distinction to talk about the two sets of demands implicit in the right to the city idea. One is a demand born “out of necessity” and material poverty. The other is a demand “for something more” (2009, 190). In the first instance, the demand for the right to the city appears as a cry for the basic “material necessities of life.” It is often an appeal for legal rights and against direct oppression. In the second instance, the demand is of a more aspirational quality. Often, it comes out of feelings of alienation, discontentment and a more utopian belief that a “different world is possible” (190). Marcuse notes that these two types of demands can often be in conflict -- especially when resources and energy are limited. Marcuse’s larger point, however, is that a fully fledged right to the city movement must necessarily incorporate both -- “combining the demands of the oppressed with the aspirations of the alienated” (2009, 192). For Marcuse, the only way to reconcile these competing demands is through ideology. Obviously there are strong parallels between this chapter’s attention to labor rights and Marcuse’s distinction between the demands of the deprived and the demands of the discontented. In some ways, driver demands for higher wages clearly find parallels with the demands of the discontented. Conversely, rider demands for better bus service can often appear as demands for the basic necessity of mobility. The argument of this chapter has been the same as that of Marcuse’s. Namely, that a fully fledged right to the city movement must bring riders and drivers together. This chapter has also parroted Marcuse in arguing that the best way to reconcile the demands of both riders and drivers in a broad fight for the right to the city, is an effort that must start from the ideological refusal to see drivers as somehow apart from the riding public.

## Chapter Five: Justice in Transit: Against the Idiocy of Urban Life

Well you look back historically to the Montgomery Bus Boycott, you look back to Rosa Parks and that era, but you know what's sad about it? I mean people *were* riding the bus. There was obviously money for the buses, and yes, maybe the buses were segregated, but now there [are] no buses for anybody. I mean [...] it's not where you sit on the bus-- it's that there is no bus to sit on.

-Steve Gerstle, Former member of the Alliance for AC Transit. October 13, 2010  
(emphasis added)

The bourgeoisie has subjected the country to the rule of the towns. It has created enormous cities, has greatly increased the urban population as compared with the rural, and thus has rescued a considerable part of the population from the *idiocy* of rural life.

-Karl Marx and Friedrich Engels, *The Communist Manifesto*. 1848 (emphasis added)

On Tuesday, February 14<sup>th</sup> 2010, the Federal Transportation Administration (FTA) withdrew \$70 million in stimulus funds from the Bay Area Rapid Transit district's (BART) proposed Oakland Airport Connector (OAC).<sup>113</sup> BART, the FTA found, had failed to conduct an adequate "equity analysis" measuring the project's impact on minority and low income communities

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<sup>113</sup> At least since the late 1970s -- when it was slated to be called the "Amelia AirBART"-- city boosters in Oakland and the East Bay have pushed for the construction of a higher profile transit connection to the Oakland International Airport with the hope that such a "legacy project" might serve to draw more capital investment to the city and region (Raine 2001, Span 2010a).

(Emandjomeh 2010; Wollan 2010).<sup>114</sup> In a tersely worded letter to BART, the FTA's project administrator, Peter Rogoff, informed the agency that all current and future federal funds would be withheld until it came into compliance with Title VI of the 1964 Civil Rights Act-- a federal law prohibiting discrimination on the basis of race, color or national origin (Rogoff 2010). The FTA's decision was the first of its kind and it was telling in a number of ways. At its broadest, the decision served to remind public agencies across the county that stimulus projects would not only have to be "shovel ready," but they would also have to be equitable and fair (Wollan 2010). In the East Bay, the FTA's decision was notable for another reason. For activist groups like Urban Habitat, Public Advocates, Genesis and TransForm -- which had filed the initial civil rights complaint to the FTA -- the FTA's decision not only validated years of lobbying, but it also marked "a rare victory" for "transportation justice" as an important political project (Brenman and Marcantonio 2010). This chapter begins by asking, well, what do we mean by transportation justice?

In each of the last four chapters, I have suggested that debates over rights ought to matter for those of us interested in the complex geography of urban transit. I have also argued for the importance of seeing transit as fundamentally connected to what scholars increasingly refer to as our broad and expansive right to the city (Mitchell and Heynen 2009; Harvey 2008). This chapter approaches such debates by looking specifically at the emergence of the transportation justice movement in California's East Bay. Several questions lie at the heart of this chapter: what type

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<sup>114</sup> In many ways, the critiques of the OAC were both predictable and understandable. Designed by an Austrian firm known for its ski lifts, the \$500 million, 3.2 mile elevated train to the Oakland Airport had "boondoggle" and "elitist" written all over it (Brenman and Marcantonio 2010; Span 2010; Lo and Rein 2010). Apart from duplicating an already established bus line, the OAC's design made it all but inaccessible to anyone but airport travelers -- a relatively affluent segment of the population. Despite running through a low-income and minority neighborhood, the OAC's elevated train included no intermediate stops. Additionally, a one way trip on the OAC was predicted to cost riders \$3 more than the current fare for the same trip on an airport shuttle (Brenman and Marcantonio 2010).

of political project is transportation justice? Where did it come from? And how might we understand such a project in the context of debates over the so called “right to the city?”

To address these questions, this chapter is divided into three parts. The first section traces the rise of transportation justice and transit equity as national political projects. The second section examines the development of the transportation justice movement in California’s East Bay -- giving particular attention to a group called the Alliance for AC Transit and Bus Riders Union. The third section will look at transportation justice by broaching the question of justice itself. When transportation justice is sought, I will ask, what type of justice is it? Ultimately, I argue that transportation justice in the East Bay has been more than a demand for social justice or equity in transit funding; it has also been a more radical demand for a right to the city. Against transit policies that promote *idiocy* and isolation, transportation justice has arisen as a project based upon the belief that marginalized groups and populations are entitled to be a part of the process of city making.

### **What kind of political project is transportation justice?**

Discussions of transportation justice often begin with the Los Angeles Bus Riders Union (BRU). In many ways, the Los Angeles BRU has come to exemplify one the clearest and most successful examples of transportation justice in action. Founded in the early 1990s,<sup>115</sup> the Los Angeles BRU gained national attention in 1994 after winning a landmark civil rights settlement against the Los Angeles Metropolitan Transportation Authority (MTA). The victory not only stalled the MTA’s plans to build a costly light rail to the affluent area of Pasadena, but it successfully redirected billions of dollars to local Los Angeles bus riders -- riders who had been poised for yet another

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<sup>115</sup> The BRU was founded as an outgrowth of Los Angeles’ Labor/Community Strategy Center.

fare hike (Gilmore and Bloom 1994; Sterngold 1999). Since 1994, the BRU has notched several additional victories. These have included: a reduction in the cost of monthly bus passes; the replacement of 2,100 dilapidated buses; an expansion of the bus fleet by more than 300; and the city's first Bus Rapid Transit line (Mann et al. 2006). For activists across the country, the BRU has been a powerful example of what a movement based upon transportation justice can achieve. For Eric Mann -- one of the central organizers-- that was the entire point:

...the fight for a first class urban transportation system -- and the way in which the Strategy Center and Bus Riders Union are theorizing and organizing that fight -- offer [...] a theoretical and strategic model that challenges much of the existing organizing on transportation and urban issues in the U.S. It is an effort to put forth an analysis and an organizing model, rooted in a breakthrough social movement and a class action civil rights case that can generate an urgently needed debate about an alternative vision for mass transportation and urban policy (Mann 1996, 3) .

Since 1994, bus riders unions have materialized in cities across America. Such groups have appeared in Anchorage, Oakland, Atlanta, Baltimore, Memphis, Tucson, Portland, Long Island, and Laredo Texas.<sup>116</sup> Like the Los Angeles BRU, these bus rider-led organizations have taken it as their mission to ensure that riders' voices are included in the process of transportation planning (Sterngold, 2001).<sup>117</sup> Alongside the more grassroots work of bus riders unions, transit activists have also adopted a set of legal strategies. These strategies have been evidenced in civil

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<sup>116</sup> In 2011, a public accountability non-profit called GoodJobs First, published: *Organizing Transit Riders: a manual*. Drawing from examples across the country, the manual offers a how-to-guide on organizing bus riders. If anything, the guide is testament to the popularity of the bus riders union model (LeRoy 2011).

<sup>117</sup> In each city, of course, bus riders face a different set of challenges. Where groups like the Long Island Bus Riders Union must contend with a recently privatized system and a large disabled and elderly population (Long Island 2012), groups like the Laredo Bus Riders Union must appeal to a largely immigrant community and to a wholly different institutional landscape (Laredo 2012).

rights lawsuits in New York, Chicago and Oakland -- each over racial discrimination in transit funding (see *N. Y. Urban League v. N.Y.MTA* 1995; *Munguia v. State of Illinois* 2010; *Darensburg v MTC* 2009). In addition to transportation justice organizations working at the local level, a number of national groups have developed. Among these is the Transit Equity Network (TEN). Since its founding in 1997, TEN's focus has been on finding ways to incorporate stronger civil rights and environmental protections into federal transportation legislation. In 2003, and in the lead-up to the reauthorization of the Transit Equity Act for the 21<sup>st</sup> Century (TEA 21) TEN was a key player in ensuring that the law gave attention to issues of transit dependency, public participation and environmental justice (TEN 2003; TEN 2010).<sup>118</sup> Since first emerging on the national scene in the mid 1990s, the idea of transportation justice has only grown more prominent with time -- evidenced by an ever growing number of bus riders unions, civil rights lawsuits and national initiatives like TEN. At the heart of this growing movement has been the consistent belief -- best expressed by the Los Angeles BRU-- that "affordable, efficient, and environmentally sound mass transit is a human right" (The Strategy Center 2010).

There is certainly a case to be made that transportation justice, as an idea, has much deeper roots. After all, members of the Los Angeles BRU were not the first to call attention to the problems of urban sprawl or transit disinvestment. On the contrary, there is long history of critiques aimed at urban transportation policies on these very terms (see Chapter Two). During the postwar period, scholars like Daniel Patrick Moynihan (1960) and Wilfred Owen (1956), condemned the "one-size fits all approach to highway and transportation planning" (Jakowitsch and Ernst 2004).

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<sup>118</sup> TEN began as part of Center for Community Change in 1997 (Smart Growth 2001). At least for the last five years, TEN has been part of the Gamaliel Foundation and works within Gamaliel's larger social justice mission. It functions as both a policy clearinghouse for member organizations, as well as a forum in which smaller member groups can learn about and advocate for various provisions in federal transit policy. At the moment, TEN's platform includes demanding increased federal funding for public transportation; increased community and democratic control over transportation planning; greater support for Transit Oriented Development and the greater representation of minorities and women in the transportation construction industry (TEN 2010).

Highway and road expansions, they argued, did nothing to quell problems of congestion. Worse still, such projects often came at the expense of the very cities they were intended to improve -- exacerbating the centrifugal flight of capital and people (Jakowitsch and Ernst 2004). As noted in Chapter One, Wilfred Owen (1956, 20) captured the unique irony of postwar transportation planning quite succinctly: “transportation has created many of the conditions that people strive to escape, but it has also provided a means of escaping them and therefore a means of avoiding solutions.”<sup>119</sup>

While scholars like Wilfred Owen focused on the flight of people and capital from cities during the postwar, scholars like John F. Kain (1968) focused on those communities that were left behind. For Kain, postwar urban transportation planning had created a set of clear losers: black, working-class families in the inner city. Without access to private automobiles and reliant on inadequate public transit, these workers found themselves victims of what Kain deemed the “spatial mismatch.” Postwar transportation planning and housing discrimination, Kain asserted, had virtually shut these workers off from economic and social opportunity.

The legacy of postwar transportation planning is still with us. Problems of congestion, pollution and parking remain as intractable today as they did in the 1950s and 1960s. Problems of transit dependency, of poverty, and of the enduring effects of what Robert Bullard et al. (2004) deemed “transit racism” are, today, no less acute. Similarly, just as Moynihan (1960) bemoaned the democratic deficit associated with federal highway investments, so too do organizations like the Los Angeles BRU continue to bemoan the lack of public consultation involved in planning urban

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<sup>119</sup> In 1965, the McCone Commission released a report on the Watts riots that largely reinforced Owen and Moynihan’s concerns. The report suggested that at least some of the responsibility for the urban violence and unrest that wracked the city for nearly a week, rested on the shoulders of poor urban transportation planning (Governor’s Commission 1965).

transportation systems. What is perhaps unique about the idea of transportation justice -- as it has arisen in cities like Los Angeles and elsewhere-- is that its critical advocates often go beyond issues of transportation alone. For many, the fight for equitable transportation and better mass transit has also been about building something larger. According to groups like Urban Habitat in Oakland, for example, transportation justice is as much about combating “an economic system that is imprisoning the poor in jobless apartheid, polluting the air [and] wasting resources” as it is about advancing equity in transportation funding (Ellis 2001; Clarke 2006). For national groups like TEN, the fight for transportation justice is not simply a fight for more transit dollars, it is also a fight aimed at “repairing America’s inequities,” at “restoring our collective commitment to public life,” and at offering an antidote to “the bipartisan free market disaster that is destroying our cities” (TEN 2010; Mann 1996, 3).

What this says, of course, is that transportation justice -- apart from a set of policy positions on transit funding-- is increasingly understood as a broader political project whose aims and goals are much wider in scope. As Mann has suggested, the transportation needs of the working class and communities of color “are both an end to themselves and an essential building block of an effective organizing plan” (Mann et. al 2006, 8). The potential of transportation justice for catalyzing a larger progressive movement has been exciting to a number of activists and scholars. Citing the success of the Los Angeles BRU, historian Robin DG Kelley (1996) has argued that such campaigns can represent the future of progressive organizing. Following decades of an anemic labor movement and a rightward shift in public policy, “what [Bus Riders Unions] are offering,” Kelley has argued, “is precisely the vision for social justice progressives tragically seem to have lost” (Kelley 1996, 20). Such plaudits have continued. In 2010, Edward Soja opened his book on spatial justice with much the same claim.

There is much to learn from the accomplishments of the strategic coalition behind the Bus Riders Union [...]. For social movement activists and progressive scholars everywhere it stands out as an exemplary model of successful urban insurgency in the search for racial, environmental and spatial justice [...]. One can see the possibility that the BRU along with the other resurgent coalitions that have been developing in Los Angeles over the past two decades can become effective springboards for a much larger social movement seeking to erase injustices wherever they may be found (Soja 2010, xviii).

This argument is not restricted to the U.S. context. Drawing on her experience with the “Free Transit Campaign,” of the Greater Toronto Workers’ Assembly, scholar-activist Schein (2010) has joined Soja and Kelley in arguing for the centrality of transit in progressive organizing.

What is exciting to me about the free transit campaign is that the expression of a radical anti-capitalist principle -- the outright de-commodification of public goods and services -- actually serves in this instance to invite rather than foreclose genuine political dialogue about values, tactics and strategies [...]. Free transit could represent a site of convergence between many distinct activist circles in the city and foster greater integration and collaboration between environmental advocacy, anti-poverty work and diverse human rights organizations...(Schein 2010).

In reflecting on her experience, Schein heralded what she saw as the potential for a “Free Transit” campaign to crack the old divisions and barriers that had come to characterize the decadent traditional leftist organizing that she saw in Canada.

Within the left, efforts to elaborate a broad anti-capitalist vision too often run aground at the level of abstraction, generalities and platitudes. Most Toronto residents would draw a blank if asked to imagine a world without capitalism but what Torontonians who have ever waited for a bus can't begin to imagine an alternate future for the city, built on the backbone of a fully public mass transit system? The invitation to imagine free transit is an invitation for transit riders to imagine themselves not simply as consumers of a commodity, but as members of a public entitled to participate in conversations about what kind of city they want to live in. Without devolving into abstract and alienating debates over the meaning of, say socialism, the call for free transit invokes the things we value: vibrant neighborhoods; clean air and water, participatory politics; equitable distribution of resources; public spaces where we are free to speak, gather, play, create and organize (Schein 2010).

Within the last eighteen years, transportation justice has emerged as a veritable political project in cities across North America, but what kind of political project is it? In some ways, transportation justice has been little more than a reaction to the legacy of postwar transportation planning. It has, by this account, been a reaction to urban transportation policies that have not only encouraged sprawl, but that have posed social and economic barriers to minority and poor communities. At the grassroots level, the fight for transportation justice has manifested itself in an explosion of local advocacy organizations and Bus Riders Unions. Such local groups have not only enjoyed the support of more national initiatives like TEN, but they have also found support amongst policy experts like Robert Bullard (2004) and Thomas Sanchez (2003). For many of these groups and individuals, transportation justice has primarily been a fight to protect the civil rights of minority and low income bus riders by demanding equity in transit funding. In other

ways, however, transportation justice has also been a project with greater ambitions. Not only has it included an explicit commitment to advance “social, economic and environmental justice” but, for many, transportation justice can be a potential catalyst for a broader working class movement (Ellis 2006). Taken as such, transportation justice not only appears an ambitious political project but also one that bears a striking resemblance to the radical demand for a right to the city. This assessment finds no better illustration than in the case of California’s East Bay, where the fight for transportation justice has developed in a number of interesting ways.

### **Transportation justice in the East Bay**

There is long history in the Bay Area of activism around transportation. San Francisco was, for example, ground zero for the anti-freeway revolts of the 1960s.<sup>120</sup> Similarly, when construction on BART began in 1964, it met with almost immediate opposition from both minority groups in West Oakland (Rodrigue 1999), and residents groups in Berkeley.<sup>121</sup> In the late 1970s and early 1980s, transportation was also a locus of conflict for disabled riders involved in Berkeley’s Independent Living Movement (Pelka 1997). The fact that transportation has frequently been a political flashpoint for communities in the Bay Area should come as no surprise. Where new highways may open up new regions to development, they afflict others with blight and congestion. Where commuter rail projects like BART can promote regional integration, they can

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<sup>120</sup> In 1959, after four years of protests from residents in communities like Glenn Park, Sunset, Telegraph Hill and the Marina District, the San Francisco Board of Supervisors famously blocked seven of nine freeways scheduled for construction in the city. The decision marked a stunning defeat for the California highway lobby and it spoke to the resolve of local organizers determined to protect their community’s quality of life (Issel 1999; Mohl 2004, 678)

<sup>121</sup> While the protests against BART by minority communities in West Oakland largely went unheeded, Berkeley residents successfully forced BART to redraw its plans for the city completely. Rather than running an elevated route through downtown Berkeley, organized groups successfully pushed BART to construct the rail below ground--at even higher cost to the agency (Merewitz 1972; Stokes 1973).

also make certain business districts redundant.<sup>122</sup> And similarly, while certain bus designs may meet the needs of one population, they may restrict the mobility of others. The heated debates that so often arise around transit investments are thus rooted in justifiable concerns about who will benefit and who, in turn, will lose out. In the Bay Area, the idea of transportation justice has been a relatively recent addition to these debates. Nevertheless, there are a growing number of organizations in the region for whom it has already become an important organizing principle. These groups have already made their presence evident in the 2005 civil rights lawsuit *Darenburg v. MTC* as well as the recent fight against the BART OAC. This section will look at several of the most visible transportation justice organizations in the East Bay and will focus on where each fits within the broader transportation justice movement in the region. The section will begin, however, by turning its attention to the less well known history of a group called the Alliance for AC Transit and Bus Riders Union. In contrast to other transportation justice organizations in the East Bay, the rise and decline of this group has garnered scant attention. As one of earliest organizations in the region working on issues of transit equity and justice, its story is an important one.

### **The Alliance for AC Transit and Bus Riders Union**

The Alliance for AC Transit and Bus Riders Union began in response to a crisis. In 1995, 40% of all transit agencies in the U.S. either cut service or raised fares. As is often the case, the crisis was political in origin. The Republican takeover of Congress in 1995 not only saw sweeping cuts to social services, but also equally deep cuts in federal aid to local transit agencies. Between 1994 and 1996, federal operating aid dropped from \$802 million to just over \$350 million

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<sup>122</sup> This was, in fact, precisely the case in downtown Oakland whose business district actually declined after the development of BART. BART simply made it easier for East Bay commuters to bypass downtown Oakland on their way to San Francisco (Weber 1976)

(Shioya 1995). By 1998, it was phased out completely. For agencies like AC Transit the loss of such aid was devastating. With \$5.5 million less in federal operating aid at the end of 1995, AC Transit was forced to both raise fares and cut service (Cohen and Crabbe 2005; Shioya 1995).<sup>123</sup> (see Appendix C: Graph 1)

In late 1995, local activists in Oakland and Berkeley formed the Alliance for AC Transit. According to founding member John Katz, the Alliance began as an offshoot of a larger progressive coalition in the East Bay convened by Alameda County Supervisor Keith Carson. That coalition had been formed to respond to the needs of local social service providers whose programs had been imperiled by the Republican takeover. What began as the transit subcommittee of that larger progressive coalition, eventually broke off as a separate group, becoming the Alliance for AC Transit. Katz dates the birth of the Alliance to June 16, 1996--the date that a still nascent group of transit supporters organized a successful rally in downtown Oakland protesting AC Transit's slated service cuts (Sandosham 1996). Apart from drawing numerous politicians, the Alliance was, at the rally, joined by another recently formed group based in the East Bay called the Bus Riders Union-- the group had been founded by a bus rider named Charlie Betcher who had drawn his inspiration from the successful LA riders union. As Katz recalled, the rally was not only successful in proving that "there was a constituency to try and keep bus service at a high level," but it was also successful in setting "in motion a strong [and lasting] transportation advocacy community in the East Bay" (John Katz, Interview, November 29, 2010).

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<sup>123</sup> In September 1995, AC Transit's Board of Directors voted 4-3 to reduce Saturday service from 80 to 23 lines, Sunday service from 70 to 22 lines and to cut weekday evening service by half ( Shioya 1995).

By 1998, the Alliance for AC Transit had 115 active members and eleven affiliated organizations.<sup>124</sup> Charlie Betcher's Bus Riders Union had, by then, become something of a subcommittee of the Alliance for AC Transit (Look at us 1998; Bowman 1997).<sup>125</sup> The goals of the Alliance for AC Transit and Bus Riders Union were straightforward:

- 1) To advocate for adequate funding for AC Transit's local, transbay and paratransit services.
- 2) To educate the public and decision-makers about the need for public bus transit.
- 3) To advocate for the interest of AC Transit riders.
- 4) To develop a constituency supportive of AC Transit (The Mission of the Alliance, 2002).

Over the course of a decade, the Alliance for AC Transit and Bus Riders Union sought to meet these goals through a wide range of campaigns and initiatives. It focused much of its advocacy on the task of simply getting more funding for AC Transit so as to prevent the agency from enacting further service cuts.<sup>126</sup> This advocacy took a number of forms. In 1998, for example, the Alliance was part of a winning coalition of organizations that successfully lobbied the MTC to redirect \$375 million from highway projects to local transit services (\$51.5 million of which went directly to AC Transit).<sup>127</sup> In 2000, it played a key role in the passage of Measure B -- a

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<sup>124</sup> These organizations included Albany/El Cerrito Access; AFSCME Local 3916; ATU Local 192; Center for Independent Living; Energy Services Network; Gray Panthers; KBJR Trust; The People on the Bus; regional Alliance for Transit; Sierra Club; United Seniors of Oakland and Alameda County.

<sup>125</sup> Before September 1999, the Alliance and Bus Riders Union maintained two separate membership lists. The cost of an annual membership was \$5 for the Alliance and \$2 for the Bus Riders Union. In 1998 the Bus Riders Union had 1,051 dues paying members.

<sup>126</sup> The Alliance for AC Transit and Bus Riders Union emerged as an early critic of the MTC's funding priorities. In fact, within a year of forming, one of the organization's first actions was to fire off a letter lambasting the agency's 1996 draft Regional Transportation Plan (Letter to MTC 1996). Citing the plan's alleged overemphasis on highway projects, the Alliance accused the MTC of not only neglecting AC Transit's minority riders, but of adopting policies that would lead to a Bay Area resembling Los Angeles "more than it resembled the Bay Area [sic]" (Letter to MTC 1996).

<sup>127</sup> This campaign was led by the Bay Area Transportation and Land Use Coalition (BATLUC) -- which later became TransForm. The campaign focused on the MTC's inclusion of several highway expansion projects in the

ballot measure that allocated \$256 million of sales tax revenue to AC Transit over twenty years (Tibbey 2001). Similarly, in 2002, the Alliance helped direct \$7.4 million to AC Transit operations through their lobbying efforts around Measure AA--a \$24 parcel tax on all real property in Alameda and Contra Costa County (Holstege 2002).<sup>128</sup>

Apart from securing money for AC Transit, the Alliance also became well known for a number of other campaigns. These campaigns often had more abstract goals. Namely, they focused on: educating the public about the benefits of urban mass transit; building a constituency supportive of AC Transit; and both defining and defending the rights of bus riders in the East Bay. More than anything, these initiatives aimed at developing a sense of community among transit riders themselves.

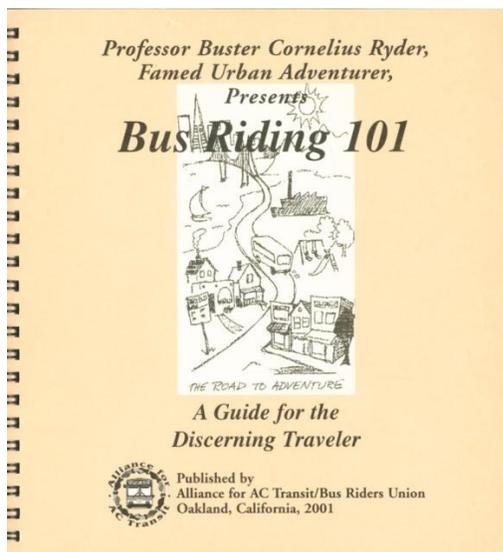


Image 2: *Bus Riding 101: A Guide for the Discerning Traveler*. By Alliance for AC Transit. 2001.

1998 Regional Transportation Plan. Following several months and numerous raucous protests, the MTC board took the unprecedented step of ignoring their staff and adopting the suggestions of local transit advocates--revising the 1998 RTP to cut funding from six environmentally destructive highway projects and dedicating the money to local transit instead (Diaz 1998).

<sup>128</sup> Throughout this period, the Alliance also focused its energies on supporting local pro transit politicians. For example, in 1998, and in the lead up to the special election of that year, the Alliance organized a "State Senate Candidates' Night," -- inviting candidates to speak on transit issues. Ultimately, the Alliance endorsed State Senate candidate Dion Aroner who had spent the previous year championing efforts to restore late night bus service to North Richmond. North Richmond had been without late-night bus service since the crisis in 1996 (Ackerman 1998).

## Bus Buzz

By Ruth C. Hadlock

Question:

How have you been affected by the October 10, 1999 schedule and route changes on the bus lines you ride?

Nura J. El Cerrito	Line 7	It takes forever to come or it drives right by. The space between when buses arrive is too long on weekdays. I don't ride it on weekends.
Joseph H. Oakland	Line 40	I haven't noticed much change but it needs to be improved. It should run more frequently, like once every ten minutes or so, because it's a basic line on a very busy thoroughfare.
Hilda K. Alameda	Line 51	Service could be better, but if it wasn't there I'd really be stuck. I try as much as possible to ride in safe areas and not too late at night so the schedule changes don't really affect me much.
Julia B. Albany	Lines 7 and 52	Once an hour on Sunday on the #7 is not often enough if you depend on it for work. Also when they claimed they were extending the 52, it was only the 52L. In fact they cut the regular 52 schedule so it doesn't go down Cedar at all after 5 or 6 p.m., and not at all on weekends.
Lillian D. Berkeley	Line 64	Coming from Shattuck and Kittredge the #64 is not running south on Shattuck anymore, but on the campus. So I have to wait for the #40 to go back to Dwight and Telegraph.
Peter S. Kensington	Lines 7 and 67	We like the security of knowing we can count on the #7 on weekends as well as weekdays. I'm happy to see the #67 come back on the weekends, and I like the fact that you can take a bicycle on it. If there's a route change, AC Transit makes a point of notifying people with posters and signs. I wish more people would ride AC. I've been riding it for 45 years and my son has for 18 years.

Image 3: *Bus Buzz*. Reprinted from: *Omnibus* 3(2):4. By R. Hadlock. 1999

In 2001, the Alliance for AC Transit and Bus Riders Union published *Bus Riding 101, A Guide for Discerning Travelers*. This 42 page booklet was intended to be a “how-to-guide” for Bay Area residents who might be intimidated by bus travel in the East Bay (Image 2). With chapters on “Bus Identification,” “Transfers,” “Bicycles” and “Transbay Services,” it instructed “first time riders on how to avoid cross cultural gaffes” and how to navigate a complex system of routes (Press Release 2001). The booklet even included a quiz at the end on “Bus Etiquette.” For the Alliance, riding the bus was an “urban skill” that not only deserved to be shared but also to be celebrated-- *Bus Riding 101* expressed exactly that sentiment. Along with publishing such booklets, the Alliance also published a monthly newsletter: *Omnibus*. The *Omnibus* reported on the latest actions of the AC Transit board as well as on upcoming ballot initiatives or bus service changes. The *Omnibus* also included film reviews, profiles of individual bus riders and a section called “Bus Buzz” containing rider responses to questions like, what is your favorite seat on the

bus? And how have the recent service cuts affected you? (Image 3) The *Omnibus* had a number of goals. Apart from keeping members of the Alliance abreast with the latest policy developments, it also offered such members a forum through which to engage with each other as members of a community with a common purpose – to fight for better bus service.

One of the Alliance’s most notable campaigns was its fight to improve AC Transit’s downtown transfer station at the corner of 14<sup>th</sup> and Broadway in Oakland. Located only one block from City Hall, the station was in the undisputed center of the city. At least since 1997,<sup>129</sup> Oakland’s downtown business community had proposed that the city move the downtown bus transfer station to an off-street and slightly less central facility. A new station, the business community argued, would relieve congestion and stem loitering. The Alliance became a severe critic of the proposal. It argued that the proposal was little more than a veiled effort to keep low income bus riders and people of color from congregating in the center of the city. The Alliance not only believed that “every effort should be made to make public transportation convenient,” but that it was important that bus riders and transit have a central presence in downtown Oakland. Having the transfer station in the heart of the city, the Alliance argued, made it clear that both transit and transit riders were, in fact, important to the city (Roy 1998). In December 1998, after sustained pressure, the Oakland City Council voted 6-0 against moving the popular bus station. Over the next several years, the Alliance became a central partner in the redesign of the transfer station-- ultimately winning wider sidewalks and canopies for bus riders at the original location (Walker

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<sup>129</sup> Debates over how to improve downtown Oakland’s streetscape became particularly acute in 1997 and 1998 as downtown property owners sought to capitalize on the regional growth of the tech industry. In a report released on February 3, 1997, the Broadway Corridor Committee concluded that the AC Transit transfer station not only contributed to “congested sidewalks” and “the perception of loitering and litter” but that such realities posed serious barriers to attracting investment to the area (Broadway Corridor Committee 1997, 2). Opposing efforts to move the transfer station to a less central part of downtown, the Alliance cited the failure of a similar effort in Kansas City, MO. It argued that a new facility would not only reduce transit ridership by inconveniencing riders, but it would do little to solve the problems of crime and loitering that had prompted the proposal in the first place (Alliance Report on Transfer Station 1998).

1998). In that same year, the Alliance emerged as a leading advocate in a different campaign-- this campaign focused on reinstating Oakland's bus shelter program. Such provision had been abandoned years earlier and bus riders in Oakland were regularly forced to wait for buses in the rain. After sustained pressure from the Alliance, Oakland's bus shelter program was finally restored in 2003. In both campaigns, the Alliance for AC Transit and Bus Riders Union had made a clear argument: not only did transit riders deserve to have a safe and dry place to wait for the bus, but transit and transit riders had a right to be in the heart of the city (Broadway Corridor Committee 1997; Alliance Report on Transfer Station 1998).



Image 4: *Steve Geller's Guerrilla Signposting Campaign* [Steve Geller attaches a schedule to a Berkeley Pole]. Reprinted from *Omnibus* 4(1):1. By A, Stross. 2000

While the Alliance for AC Transit and Bus Riders Union often worked through official channels, at other times, its activism was more ad hoc and more combative. In 2000, for example, Steve Geller, a retired engineer and a long time member of the Alliance, started a guerilla signage campaign. In this campaign Geller spent months printing and photocopying transit schedules, encasing them in hard plastic and using zip-ties to attach them to bus stops throughout the East Bay (Image 4). Bus riders, the argument went, were entitled to timetables and to know when the

bus was coming or if it was late. While AC Transit expressed initial disapproval-- even threatening legal action-- it was not too long until AC Transit began its own signage campaign, perhaps spurred to action out of a sense of shame (John Katz, Interview, November 29, 2010). In 2000, and in another memorable example of a more combative approach, Charlie Betcher--the founder of the Bus Riders Union-- began a campaign for a Bus Riders Bill of Rights. The proposed charter included nine statutes.

- 1) The right to courteous, competent service at all times
- 2) The right to a clean, well functioning bus
- 3) The right to buses that arrive and depart according to schedule
- 4) The right to be seated, or be holding on to some fixed support, before the bus starts
- 5) The right to have the lift or kneeler lowered on request
- 6) The right to be picked up when waiting at a bus stop
- 7) The right to have current bus schedules for that line available on the bus
- 8) The right to hear audible announcements about main cross streets and transfer points
- 9) The right to have a procedure for filing a complaint, compliment, or suggestion, that is simple, timely and responsive (Bus Rider Bill of Rights 2000; Action Plan 2000).

The Bus Riders Bill of Rights quickly drew the endorsements of the United Seniors of Oakland and Alameda County, the Oakland City Council and the Berkeley Transportation Commission. The purpose of the Bus Riders Bill of Rights was to offer riders some protection against the petty humiliations associated with poor transit. If anything, it sought to offer a language through which to fight back. The Bill of Rights ultimately failed to get the endorsement of the AC Transit board, and thus remained a largely symbolic effort (Bus Riders Bill of Rights endorsed 2000).

Over the course of a decade the Alliance for AC Transit and Bus Riders Union encountered its fair share of challenges. Some of these challenges came from predictable sources. These included challenges associated with a rigid state tax structure and a constituency of supporters with meager resources and little free time. Others, however, came from less predictable sources. These were challenges from other progressive groups with divergent political goals and divergent priorities. In 1998, for example, the Alliance for AC Transit and Bus Riders Union found itself at odds with the Sierra Club over Measure B. While Measure B promised millions of dollars for transit operating costs, environmental groups opposed it, citing the billion or so dollars that the measure allocated to “environmentally destructive highway projects” (Bowman 1998).<sup>130</sup> Similarly, in 1999, the Alliance found itself at odds with a Berkeley City Council intent on forcing AC Transit to convert its diesel buses to compressed natural gas-- a costly undertaking that would only worsen AC Transit’s already financially tenuous situation (Alliance Grant Proposal 1999; Albert 2000). In 1998, the Alliance even ran up against opposition to its bus shelter initiative when Oakland’s City Council voted 5-3 against starting a program that would violate the city’s ban on outdoor advertising. In an effort to avoid asking taxpayers to support such a project, the Alliance had pushed for a bus shelter program that would be funded entirely through advertising. The fight for transportation justice, in these instances, was not a fight against conservatives or libertarians but a fight against progressive forces with different agendas and different priorities.

Lastly, some of the challenges that the Alliance faced were internal to the organization itself. As John Katz, the first president of the Alliance noted, one of those was a tension that emerged

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<sup>130</sup> The tension between transit advocates and environmental groups that erupted in 1998 is nicely documented in an essay by Stuart Cohen and Jeff Hobson (2004) called “Transportation Choices in the San Francisco Bay Area.”

between the more grassroots work of organizing people -- often around the tangible nuisances of poor transit-- and the separate work of affecting broader policy change.<sup>131</sup> John Katz noted:

...one of the big struggles that we had, or tensions we had, is making sure that people at the grassroots understood what the real source of the problem was and didn't start pushing their anger at AC Transit when AC Transit was just the deliverer of the bad news... and that they should really aim higher: first at MTC, which was sort of the quasi villain, but the real problem was with the state tax structure, state government and the federal government not with agencies involved in delivering these cutbacks (John Katz, Interview, November 29, 2010)

In 2006, and perhaps partly for the reasons noted above, the Alliance for AC Transit and Bus Riders Union dissolved. Activists Aaron Priven and Victoria Wake were hired by AC Transit. David Chilenski, who had been hired as an intern in 1998, moved on to be a political consultant elsewhere. John Katz found himself working for San Francisco's MUNI and Charlie Betcher passed away in 2011. Still others, like Joyce Roy and Steve Geller, have continued their transit advocacy-- both in newspaper editorials and at the occasional public meeting.<sup>132</sup> By 2006, John Katz noted, much of the work that the Alliance had been doing was being done by other groups. More importantly, these groups were doing it better. This was especially true at the policy level.

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<sup>131</sup> These tensions were most apparent in the differences between the priorities of the Bus Riders Union and the Alliance for AC Transit. While the Bus Riders Union embodied a more grassroots and confrontational component of the partnership, the Alliance for AC Transit often emphasized cooperation with transit planners and directed its attention toward larger policy concerns at the regional level. As John Katz recalls, the members of the Bus Riders Union were much more ready to "fire off and angry missive to AC Transit," than the leadership of the Alliance for AC Transit who were more interested in working with the agency. In fact, some of Alliance members like Victoria Wake and Aaron Priven were eventually hired by AC Transit (Joyce Roy, Interview, September 27 2012; John Katz, Interview, November 29, 2010). In some ways, this was a product of the membership of each group: the Bus Riders Union attracted transit dependent riders and seniors on fixed incomes; the Alliance for AC Transit was largely comprised of white professionals.

<sup>132</sup> After disbanding, the Alliance's remaining organizational funds were directed to the Transportation and Land Use Coalition (TALC) which had been called BATLUC and would later become TransForm.

Simply by dint of their large size and greater access to resources, groups like TransForm and Urban Habitat, were better able to do the hard analysis and writing required to engage seriously in regional policy debates on transit.

The legacy of the Alliance for AC transit and the Bus Riders Union is an important one. Over the course of a decade, the Alliance played a key role -- if a largely unacknowledged one -- in shaping transit in the East Bay. They were the lead advocates behind improving Oakland's principal transfer station at 14<sup>th</sup> and Broadway, and were consistent proponents of a renewed city wide bus shelter program. In 1998, they were part of a larger coalition of organizations that directed \$375 million to local transit needs. In 2000 and in 2002 they helped pass ballot measures that provided direct support to AC Transit. For the Alliance for AC Transit and Bus Riders Union, the fight for transportation justice meant supporting ballot initiatives and candidates that might improve bus service and reverse the service reductions of the mid-1990s. More compellingly, transportation justice also meant organizing riders through newsletters, protests and by appealing to range of rights -- whether those were rights to courteous treatment, to bus shelters, or to simply be in the heart of downtown Oakland while waiting to transfer.

### **Urban Habitat, TransForm, Genesis, ACCE**

The Alliance's goals have continued to find expression in the transportation justice campaigns of Urban Habitat, TransForm, Genesis and the ACCE Bus Riders Union. In the last decade, Urban Habitat, in particular, has arisen as perhaps the most prominent voice in transportation justice in the East Bay. Urban Habitat itself was founded by architect and activist Carl Anthony in 1989. Through much of the 1990s, it developed and promoted environmental justice campaigns in the East Bay's communities of color. Since 2003, however, Urban Habitat has largely narrowed its

focus to issues of transportation and transportation justice (Lindsay Imai, Interview, October 19, 2010). Most significantly, in 2003, it founded the Transportation Justice Working Group (TJWG) -- a forum for nonprofit, labor, civil, and faith based groups in the East Bay committed to working to address issues of transit inequity. As the convener of the TJWG, Urban Habitat has, for much of the last decade, been at the center of many of the debates over transportation justice in the region. The vast majority of its transportation justice work has focused on the broader goal of getting the MTC to be more responsive to the needs of AC Transit's predominantly minority transit riders. This has involved lobbying for more minority and low income representation on the MTC's various public boards. It has involved lobbying the MTC to perform a more robust equity analysis when formulating its Regional Transportation Plan (RTP). And it has involved publicizing what it regards as the region's persistent neglect of AC Transit's minority riders. In 2005, for example, it played a key role in publicizing a study that found strong racial disparities in the region's funding of mass transit. That study found that while Caltrain and BART's largely white and affluent riders enjoyed subsidies of \$13.79 and \$6.14 per trip (respectively), AC Transit's largely minority riders only received a subsidy of \$2.78 (Egelko 2005; Richman 2005; Mayer and Marcantonio 2005).<sup>133</sup> This study became a key feature of *Darensburg v. MTC* and it continues to be a touchstone in fights for transportation justice in the region (Urban Habitat Overview 2012). (Figure. 3)

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<sup>133</sup> One of Urban Habitat's goals has been to persuade the MTC to adopt better internal mechanisms that ensure regional transit equity. Although the MTC has included an equity analysis in every RTP since 1998, Urban Habitat and others have criticized the MTC's methodology. Despite an overemphasis on rail projects that benefit more affluent communities, the MTC has defined such projects as equally beneficial to minorities since such projects often run through minority neighborhoods. Over the years, Urban Habitat has attempted to formulate better methods for measuring equity and has worked with the MTC's various public bodies to persuade the MTC to adopt such methods.

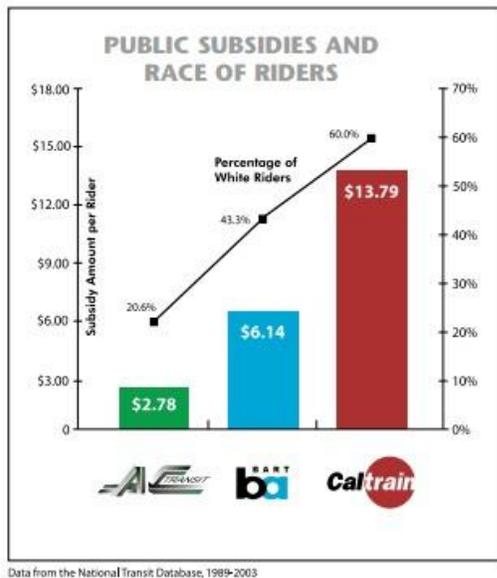


Figure 3: *Public Subsidies and Race of Riders*. Reprinted from: *Race, Poverty and Environment*. 12(1):22. By Urban Habitat, 2005.

Transportation justice has been an important component of the work of TransForm. Founded in 1997 as BATLUC, TransForm initially gained prominence in 1998 after playing the lead role in the successful redirection of \$375 million in highway funds to local transit. Since then, TransForm has spearheaded a number of other initiatives related to transportation justice. For TransForm, however, equity issues are only one focus among many. Much of TransForm's work has been aimed at promoting Bus Rapid Transit, Transit Oriented Development, smart growth, caps on greenhouse gas emissions and affordable and environmentally sound housing. It has often chosen to frame these issues in environmental terms rather than in terms of justice or equity. TransForm's commitment to questions of transit equity, however, has been clear in a number of instances. In addition to being a central member of the TJWG and apart from its role in 1998 in getting more money for AC Transit, its clearest role in the fight for transportation justice was its advocacy against BART's OAC. In 2010, it played a lead role in drafting the Title VI complaint to the FTA that ultimately stalled the project's start date. In addition, its 2010

policy analysis of the OAC project was, in many ways, the most substantive in its condemnation of the project's inequity and damage to the East Bay minority communities (TransForm About Us 2012; Kittleson and Associates 2010).

Genesis and ACCE offer yet another face of the East Bay's contemporary transportation justice movement. Specifically, they represent the leading edge in efforts to organize local communities and bus riders themselves. Genesis was founded in 2007 and is part of the larger Gamaleil Foundation-- a nationwide network of faith based groups working on issues of social justice. Many of its members are recruited through their home churches and congregations. Since 2007, the primary goal of Genesis has been to "unite people to work together and [to] create a unified voice for social justice and public policy reform" (Genesis 2012). In meeting this goal, Genesis' efforts in the East Bay have almost exclusively focused on issues of transportation justice. Its most prominent initiative has been the "free student bus pass" campaign which it began in 2010. The campaign was based on the belief that students in the East Bay ought to be able to get to and from school without having to pay bus fare -- as was common practice. As Genesis' chair Reverend Scott Denman argued in 2010: "If you're not providing a way for students to get to school, you're denying them the right to education itself" (Cuff 2010). Since 2010, Genesis has been an important force at the grassroots level and an important member of the TJWG. They have organized public protests, letter writing campaigns and worked with the other members of TJWG to bring awareness to transportation issues. True to its Alinskyite roots it has directed much its energy to organizing church congregations and other faith based groups (Genesis organizer, Interview, November 12, 2010).

Alongside Genesis is the ACCE Bus Riders Union.<sup>134</sup> Originally part of ACORN (a former national community organizing network) ACCE emerged in 2010 as a separate statewide organization working on issues of education, housing foreclosures and transit justice (Garofoli 2010). Despite its rebranding, the goals of ACCE remain largely the same as those that defined ACORN.<sup>135</sup> These include: organizing low and middle income communities; “building alliances with civic, labor, religious, business and policy makers” and building the campaign infrastructure needed to “win progressive tax, budget and policy reform for California Communities” (ACCE 2012). The ACCE Bus Riders Union began in the summer of 2010 in the wake of a series of service cuts and fare hikes at AC Transit (see Appendix C: Graph 1). Like the Los Angeles BRU, it recruits its members on buses and at bus stops. Since 2010, the Union has staged a number of rallies, held press conferences and outlined a series of demands often directed at the AC Transit Board of Directors itself. These demands have included everything from saving particular bus routes from elimination (Route 14), to creating a weekend super bus pass and extending “timed transfers” from two hours to four hours. Both the ACCE Bus Riders Union and Genesis have approached transportation justice in much the same way -- as a platform from which to build a broader social justice movement.<sup>136</sup>

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<sup>134</sup> At least in 2010, there were few evident links between the Alliance for AC Transit and Bus Riders Union and the ACCE Bus Riders Union. If the comments of former Alliance member Joyce Roy are at all representative, the remaining Alliance members viewed the ACCE Bus Riders Union with some degree of skepticism. This is perhaps partly due to ACCE’s origins. Many of the key organizers for the ACCE Bus Riders Union were neither from the East Bay nor rooted in the East Bay’s activist community. The ACCE Bus Riders Union was merely one component of a much larger statewide organization. As a result, not only did its goals seem more contrived to local actors, but its annual membership fee far exceeded that of the Alliance’s. This was due largely to the overhead associated with having a paid staff and a statewide presence (Joyce Roy, Interview, October 11, 2010).

<sup>135</sup> In California, ACCE, in many ways, is all that is left of ACORN which collapsed in 2009 after a deluge of bad press and a sustained rightwing campaign against it.

<sup>136</sup> Apart from staging rallies, the ACCE Bus Riders Union has also served another role, and that is to provide ACCE’s leadership with a large constituency of individuals that can be deployed to many of its other campaigns. For example in 2010, many members of the ACCE Bus Riders Union were recruited for ACCE’s voter registration drive, its campaign supporting youth violence prevention programs, and its anti-foreclosure campaign.

Transportation justice has emerged as a veritable political project in California's East Bay. The vibrancy and strength of that project is frequently evident. In 2010, it functioned to temporarily derail the construction of BART's proposed OAC. In 2005 that demand for justice was seen in the widely followed class action lawsuit *Darensburg v. MTC*. Calls for transportation justice in the region only intensified following the publication of studies like those in 2005 which showed strong evidence of racial discrimination in transit funding. In many ways, however, such campaigns have only continued and expanded upon the earlier efforts of groups like the Alliance for AC Transit and Bus Riders Union. The Alliance's focus on helping AC Transit secure a more consistent funding stream; its focus on addressing the petty inconveniences of transit; and its more abstract efforts to promote the dignity of riders themselves-- all continue to be fundamental components of the East Bay's transportation justice movement. Whether in the work of the Alliance, or the range of campaigns that have followed, the fight for transportation justice in the East Bay has remained clear in its objective -- to give traditionally marginalized groups a voice in how transportation is planned in the East Bay and to reject policies that either ignore the needs of bus riders or infringe upon their basic rights to use transit or to be part of the city. To quote Urban Habitat's Lindsay Imai -- implicit in the demand for transportation justice is the belief that transit "is a civil right" and that equitable public transit has an important "equalizing role in historically disenfranchised communities" (Lindsay Imai, Interview, October 19, 2010). Apart from the particular history and evolution of transportation justice in the East Bay what deserves equal attention is the question of justice itself. When groups like Urban Habitat, or ACCE, or the Alliance for AC Transit demand transportation justice, for example, to what kind of justice are they referring? On what theory of justice do they rest their advocacy?

## Rights, Justice and the Right to the City

Often when we take up questions of justice we are frequently interested in figuring out, “who gets what, where and how” (Smith 1994, 26). Calls for justice, by their very nature, not only compel us to look at inequality and “unequal relations between people,” but to ask whether such inequities are defensible or whether they warrant corrective action (Smith 1994, 52). In addition, debates over justice are often as much about how we distribute “benefits and burdens” (Arthur and Shaw 1991,5), as they are about the process by which that distribution is arrived at, and whether that process itself is fair. Within the fields of moral and political philosophy, theories of justice abound-- from those based on more utilitarian (Mill 1863) and libertarian principles (Nozick 1974) to those of liberal contractarians like John Rawls (1971). Such theories of justice not only appeal to different sources of authority and different values but, more fundamentally, each has something very different, “to say about what matters most in life”-- be it the maximum good, individual property rights, or the plight of the most disadvantaged (Smith 1994, 52). What ought we to make of transportation justice then? On what values or sources of authority does it rely?

Questions of justice have long been an important part of geography-- and particularly geographic scholarship on cities. At the most theoretical, geographers like David Smith (1994) have argued quite convincingly that not only are there differences between utilitarian or libertarian theories of justice, but also that these differences *matter* geographically and *matter* for how we organize and think about space.<sup>137</sup> A great deal of geographic scholarship on justice has also focused on cities. As early as William Bunge’s (1971) study on Detroit’s Fitzgerald neighborhood, geographers

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<sup>137</sup> Written in partial response to postmodern critiques of universalisms, David Smith’s book offered both a cogent defense of social justice’s place within geography and a clear analysis of the differences between various theories of justice (1994, 296).

have been drawn to questions of urban inequality, poverty and social polarization. In this same tradition, questions of equity and urban justice have been explicit in the work of Mitchell (2003), Soja (2010), Routledge (2010), and Merrifield (1996). Henderson and Waterstone's (2009) recent edited collection *Geographic Thought: a praxis perspective* offers an excellent overview of the ways geographers have approached justice and why such approaches matter in the context of cities.<sup>138</sup> As is clear in many of these studies, geographers have often spent as much time documenting and bemoaning geographies of injustice, as they have spent thinking clearly about alternatives. Arguably one of the most important works in geography on justice is Harvey's *Social Justice and the City*. Published in 1973, and at the tail end of geography's quantitative revolution, *Social Justice and the City* began with a set of questions aimed at engaging a discipline that seemed virtually incapable of talking coherently about problems of urban inequality. Two key questions were: how might changes in the spatial arrangement of cities address issues of income inequality and social isolation? What is geography's role in mitigating or sustaining urban inequity and social isolation? (1973, 54) Harvey provided a complicated answer. While spending the first half of the book offering a set of classically liberal formulations on redistributive justice and Rawlsian contractualism, the book ends by disavowing such approaches as wholly insufficient. The roots of urban inequality, Harvey argued, do not stem from poor distributive mechanisms, but rather from the market economy itself. Cities under capitalism, Harvey concludes, "cannot dispose of the socially won surplus product in socially just ways" (1973, 115). Rather than thinking about how to relocate or redistribute urban

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<sup>138</sup> This rather truncated discussion of justice in geography should not take away from the larger question of how to think about transportation justice. Rather than offering an unwieldy review of all the work in geography on justice, this chapter has taken the more strategic tact of focusing largely on debates within the right to the city literature. In many ways, that literature itself is in conversation with the larger breadth of work in geography on justice.

resources in more equitable ways, geographers ought to also take seriously the degree to which inequality and capitalist urbanization are of a piece.

For Harvey (2008), the idea of the right to the city has come to represent a new way forward. And while it might be stretch to call it a theory of justice, at its heart, the idea functions in much the same way -- as an attempt to assert a normative vision of what cities ought to look like and what types of social relations ought to predominate in them. When we demand a right to the city, Harvey argued, we are demanding a city in which people have, “greater democratic control over the production and utilization of the surplus” products that make cities possible in the first place (Harvey 2008). For Harvey, this is urban justice. Although they draw radically different conclusions, what we get from Smith and Harvey and many other scholars within geography and beyond, is the sense that questions of justice are necessarily fraught. Liberal theories of distributive justice, for example, do not necessarily square with a view of society that sees injustice at the point of production. Such theories have different implications and different geographies. Given all this, what kind of justice, we might ask, is transportation justice?

In many ways, transportation justice in the East Bay has been a classically Rawlsian project. It has been a project of redistribution, of uplift and of social justice. John Rawl’s liberal theory of social justice, to recall, came out of imagining a hypothetical scenario in which people must make decisions about social arrangements behind a so-called “veil of ignorance.” Without the benefit of knowing *a priori* one’s “class position, or social status” Rawls suggested that people would ultimately choose principles of justice that prioritized “liberty, opportunity and constraints on inequality” (Smith 1994, 78). Given an equal chance of being poor, or being wealthy, Rawls suggested that the rational person would choose a social arrangement that not only insured equality of opportunity, but that put a floor on human suffering. Of course, a defense of

transportation justice can begin from much the same premise. Behind a veil of ignorance and without the benefit knowing *a priori* one's place within a network of urban roads, trains or buses, a rational person, I would argue, would choose a transportation system that insured equal access and equal mobility regardless of one's social or geographic location. Thus from a Rawlsian perspective, in those instances where transportation funds are limited, such funds should be directed at the most disadvantaged populations. This, in many ways, is a large part of what transportation justice in the East Bay has been about. In fact, groups like Urban Habitat, TransForm and the Alliance for AC Transit have waged countless battles on exactly these terms. When it has been found that AC Transit riders only get public subsidy of \$2.78 while BART riders get a public subsidy of \$6.14, the demand for transportation justice is a demand for a more just distribution of transit resources. In contrast to the quasi utilitarian arguments that MTC employs to justify any given project -- i.e. producing the best results for the most people -- transportation justice activists in the East Bay have often based their rejoinders on a clear appeal to a Rawlsian theory of social justice that prioritizes policies that benefit the most disadvantaged -- whether that includes the poor, the disabled or the otherwise transit disadvantaged. John Katz of the Alliance for AC Transit largely echoed this goal when asked about what the Alliance had been fighting for:

It's almost always totally a question of resources [...]. Basically tax the rich to get more people into buses [...]. I mean literally take money from people who have it and give it not just to transit but to all needed public infrastructure [so that it's] viable, equitable, and sustainable (John Katz, Interview, November 29, 2010).

For Katz, transportation justice rested on a set of clear principles. These included a commitment to redistributing resources in ways that not only privileged the least advantaged in society but that secured for such populations “equality of opportunity.”

Groups like Urban Habitat draw on the same principle. Transportation justice, as Urban Habitat’s Lindsay Imai explained, ought to focus on leveling the playing field and redistributing resources in socially just ways. In describing the broad aims of Urban Habitat’s transportation justice campaign, she made this point quite clear:

... we see mobility as a kind of fundamental right, a human and a civil right. Good affordable, safe and reliable public transportation needs to be part of what society provides all people just like high quality free public education, high quality free healthcare. Urban Habitat isn’t out there advocating for single-payer, but it is part of our overall vision of a society that cares for all communities equally well and [that] ensures a true level playing field [...]. It’s kind of like affirmative action in transportation, although we would never frame it like that... (Lindsay Imai, Interview, October 19 2010)

Such a view of transportation justice is a common one. In fact, it is the dominant view among transportation geographers. When issues of equity and justice have been broached, transportation geographers and other social scientists have been among the first to explore the degree to which the economic and social costs of various urban transportation investments are distributed equitably (Kain and Meyer 1970; Altshuler 1979; Meyer and Gomes-Ibanez 1981; Pucher 1981; Lewis 1997; Bullard 2004; Freilla 2004). Not only have many scholars focused on how transit resources are distributed, but they have also offered remedies and policy solutions that are more equitable. In such studies, equity is understood largely in terms of which riders are cross-

subsidizing which (Pucher 1983;1981; Hodge 1988; Cervero 1990) or who bears the social and economic costs of new transportation investments (Lewis 1997; Bullard 2004; Freilla 20094).

These have been important studies. Nevertheless they rest on a conception of justice that, for some, is wholly incapable of seriously grappling with the roots of inequality (Harvey 1975).

There is, of course, an alternative and more radical sense of justice implicit in the transportation justice movement in the East Bay. This sense of justice is arguably more akin to the explicit utopianism of the right to the city idea. Lefebvre's (1996) notion of the right to the city, of course, emerged in response to a set of long standing questions for Marxists on what to make of cities and where cities fit within the historical materialist imagination. For Marx and Engels (1998[1848]), cities not only offered a visceral confirmation of capitalism's growth, expansion and dominance, but cities also seemed to offer a set of new possibilities. In rescuing "a considerable part of the population from the idiocy of rural life" (1998 [1848], 17) cities held out the possibility of something new. Idiocy, in this classical sense, meant isolation. In contrast to the relative isolation of the feudal countryside, cities were necessarily places of encounter and crowds. By their very nature, cities not only seemed to offer the possibility of new coalitions, but coalitions built around shared interests and shared struggle.<sup>139</sup> The idea of the right to the city, for Lefebvre, was expressed as a demand aimed at exploiting the possibilities that cities offered. It was demand aimed at catalyzing the very qualities of cities that Marx and Engels had identified over century earlier -- namely, the city's implicit rejection of idiocy and relative

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<sup>139</sup> Marx and Engels' emphasis on cities as sites of new coalitions stands in sharp contrast to many writers at the turn of century whose focus was on urban alienation. Some of Engel's (2009[1845]) own work, particularly in his book *The Condition of the Working Class in England*, speaks to this. More forceful still is the work of German sociologists Tonnies and Simmel. Both Tonnies' 1887 essay, "Gemeinschaft und Gesellschaft" and Simmel's 1903, "The Metropolis and Mental Life," became foundational texts in a growing literature concerned with the rise of a market society and the subsequent loss of the social and familial bonds that had defined rural life in the country (Simmel 1976 [1903]; Tonnies 2011 [1887] ). For scholars like Simmel and Tonnies, cities were not sites of promise or new coalitions, they were sites of loss and mental disorder. Their work became a central inspiration for those associated with the Chicago School of sociology.

isolation. Charting a course between the economic determinism of Manuel Castells, and the fetishism of urban life endemic to the Chicago School of Urban Sociology, Lefebvre understood urbanizations as both central to capitalism's survival and also central to its undermining (Smith 2003). In a more operational sense, Lefebvre defined the right to the city as "a right to centrality," a "right to be at the heart of urban life," a right to "places of encounter and exchange" and a right to exploit the new possibilities implicit in the process of urbanization (Lefebvre 1996[1968], 179). Mitchell (2003) has argued for understanding the right to the city in much the same way. Expanding on Lefebvre, Mitchell has foregrounded the need to protect those spaces in cities where shared struggle can actually take place -- namely, public space. There is a need implicit in the demand for a right to the city, Mitchell continues, to make sure that public spaces continue to remain spaces of "encounter and exchange," of publicity and of difference. Against efforts to transform such places into sites defined by idiosyncrasy and isolation, Mitchell might argue, that the right to the city is an essential and invaluable idea and demand. In many ways, the fight for transportation justice in the East bay can be seen as a struggle fought on similar terms. For Steve Geller of the Alliance for AC Transit, for example, the fight for transportation justice has been about a great deal more than simply leveling the playing field or ensuring equity in transit funding; it has also been about supporting "public-ness" and transit's role as a "place of encounter and exchange."

I must admit that I meet a lot of friends on the buses, a lot of people I know ride the buses, so it is a social thing, I don't know if I think of the bus as being a thing I go to for sociality only, it's a way of getting places, but effectively it turns out that there is a lot of social interactions that occur. I have noticed that fellow riders tend to be good to each other, when you are on the bus they know you are a fellow bus rider, they know you are

in the same class, people will help you out a lot more, when anyone has a question, you can always depend on people who are back in their seats to pop up with various suggestions about what to do. I think that's good, I think it encourages people to cooperate and get along and share something (Steve Geller, Interview, October 5, 2010).

For Geller, the bus was not only a place of “encounter and exchange” but it was a place that also brought out the best in people. The fight for transportation justice was thus also about protecting the community that transit had created. In October 2010, I interviewed bus rider and former transit activist Fran Hastlestiener. Fran said much the same thing:

I like riding the bus, I like the sense of community, I like the whole thing. You are not shut off from the rest of the community when you ride the bus (Fran Hastlestiener, Interview, October 1, 2010).

In November 2010, I conducted a focus group at the East Bay Center for the Blind (EBCB). During the focus group, I asked a number of questions. My primary questions, however, focused on what the previous years' cuts to transit service had meant for them and other disabled riders. One response, in particular, served to express common feelings.

If you can't drive or if people aren't at your beck and call [...] you are a prisoner of your house. If you aren't able to walk very far or take buses or use paratransit, your rights are taken away--the right to move about the city. Your right to participate is being taken away. Because we can't drive, we can only go as far as we can walk, and some of us can walk less and less as we get older (Focus Group, November 9, 2010).

For members of the EBCB, public transportation was the difference between a life as a prisoner and the “right to participate” in society. In November, I also talked to Chris Mullen. Mullen, who was disabled himself, worked at Berkeley’s Center for Independent Living (CIL) as a mobility trainer. His job was to teach both disabled and elderly clients how to use public transit. For him the importance of transit was obvious.

[Transit is] an instigator and a pusher for people with disabilities who feel limited. For seniors it’s like a reintroduction into taking control over your life. The senior I will be working with this afternoon worked the polls last week and so one of the first trips we ever took was to her polling place, and again, she had tears in her face (Chris Mullen, Interview, November 10, 2010).

In contrast to the waning “idiocy of rural life” that so intrigued Marx and Lefebvre in their thinking about cities, in the East Bay the demand for transportation justice has emerged as a powerful critique of a different kind of idiocy-- an idiocy associated with transit policies that close off the transit dependent from the rest of society. The demand for transportation justice has not simply been a critique of how transit funds are distributed, but more importantly, it has been a critique of the ways that transit policies functionally isolate and prevent individuals from participating in the public life of the city. Transit, as Chris Mullen noted, allows his clients to reach their polling places. Transit, as Steve Geller noted, makes it possible for him to meet his friends and “share something” in common. Transit, as Fran Hastlestiener noted, is about not being shut off from the rest of society. The fight for transportation justice is thus as much a fight against the reality of isolation and an urban idiocy as it is a fight for more money. When bus riders like Steve Geller and others demand a better transit system in the East Bay, they are not

demanding transit for transit's sake; they are demanding a right to the city and a transit system that allows them to assert that right.

At first glance, the movement for transportation justice appears a classically liberal demand to redirect transportation resources in more socially just ways. Upon closer examination, however, the fight for transportation justice also appears to be a fight for much more. Apart from merely advocating for better bus service, advocates for transportation justice have often set their hopes higher. As I noted earlier in this chapter, groups like TEN, the Los Angeles BRU and Urban Habitat set their sights on upending "America's current inequities," "increasing community control over" transportation planning, and "restoring our collective commitment to public life" (TEN 2010). As Schein described the case for transportation justice in Toronto, the fight for free transit was an "invitation for transit riders to imagine themselves not simply as consumers of a commodity, but as members of a public entitled to participate in conversations about what kind of city they want to live in" (Schein 2010). Lefebvre (1996[1968]), 179) defined the right to the city as a "right to centrality," "a right to be at the heart of urban life" and a right to "places of encounter and exchange." In the East Bay, the work of groups like the Alliance for AC Transit and Bus Riders Union, has developed on exactly these terms. Whether it was their fight to keep Oakland's downtown transfer station in the heart of the city, or their efforts to foment a cohesive community of riders through newsletters and a charter of rights, implicit in such efforts is a view of transit in which it is central to right to the city.

To this point, I have suggested that debates over rights ought to matter for those of us interested in the complex geography of urban transit. Nowhere is this clearer than in places like the East Bay. While organizations like Urban Habitat and TransForm have emerged at the regional level, groups like the ACCE Bus Riders Union and Genesis have focused on building a more

grassroots constituency. Still others, like the Alliance for AC Transit and Bus Riders Union tried to do both -- taking a decidedly more scattershot and ad hoc approach. Despite whatever differences they may have evinced, these groups have shared an underlying conviction. As Urban Habitat's Lindsay Imai observed, that conviction is both that "public transportation is a civil right" and that the fight for better public transit remains essential for securing a society in which individuals have an equal access to opportunities (Lindsay Imai, Interview, October 19, 2010). What should also be clear -- and this is particularly apparent in the testimonies of people like Steve Geller, Fran Hastlestiener, Chris Mullen as well as the various initiatives undertaken by the Alliance for AC Transit -- is that the fight for transportation justice has also been a fight aimed at securing another type of right, namely the right to the city and the rejection of the idiocy of the urban implicit in that idea.



Map 2: *The B Line: Berkeley's Municipal Transit System*. Lawson, K. 2010. Retrieved at: [Berkeleytransit.wordpress.com](http://Berkeleytransit.wordpress.com)

## Chapter Six: Alternatives in Transit

It's 100% a dream, there's no reality to it, it may look like it's official, but that's because I am very good at making things look official, but all it is, is one lunatic -- that's me -- coming up with the idea, making a whole route map, designing it as if it were a real bus system and then just announcing that it's real and having public meetings [...] If enough people assume that it's real-- then it becomes real -- that's how things happen in the world.

- Kristan Lawson, December 7, 2010

In late October 2010, any number of residents in Berkeley or Oakland might have stumbled upon a rather peculiar document-- a map of an otherwise fictitious transit system called: "The B-Line." On the back of each glossy map (see Map 2) -- and amidst a jumble of bullet point declarations-- was this explicit call to action:

The time has come for us, the residents of Berkeley, to set up our own transit system-- a modest fleet of electric small buses or trolleys running through the city on a network of routes designed with riders' needs in mind.

A new transit system, the flyers crowed, would "transform Berkeley into the public transit paradise it deserved to be."

Existing bus riders will get vastly improved service, with buses going exactly where we want them to go, more frequently and less expensively than with AC Transit (see Map 2; also see Appendix D: B-Line Pamphlet).

The B-Line map highlighted seven separate routes. These routes emanate in a spoke-like fashion from Berkeley's city center. For those familiar with Berkeley, of course, the logic behind each route was readily apparent. Route B1, for example, offers direct access to Berkeley's renowned "Gourmet Ghetto"--a strip of restaurants known as much for their grass-fed beef and poultry, as for their soaring prices and soaring pretensions. Riders might catch "the B1," at the top of Telegraph Avenue, near People's Park, and get off directly in front of Alice Water's famed Chez Pannise. Route B3 connects downtown Berkeley to one of the area's newest redevelopments: the Fourth Street Business District. It also links UC Berkeley's campus to the graduate student housing in the northwest corner of the city. On the map, Route B6 or the Shasta Grizzly Loop, weaves a windy course through the relatively affluent Berkeley Hills. In the mornings one can imagine men and women with professional jobs taking it to BART. One can also imagine maids using the same bus, on the same morning, to get to the very houses that those professionals left behind. Line B4 links downtown Berkeley to the city of Emeryville but largely bypasses the poorer areas of South Berkeley. Route B7, traces a wide arc through the Berkeley Hills to the Lawrence Hall of Science and Tilden Park. One can imagine this route being useful for school outings or for parents with school age children. Of course, for those unfamiliar with Berkeley or the East Bay, the social geography implicit in the B-Line map may have meant little. At the very least, however, the map itself would have raised an important question: but, why does Berkeley need its own transit system?

In some respects, the idea of a new transit system in California's East Bay was understandable. 2010 had been a horrible year for transit. Over the course of nine months, AC Transit had cut service by nearly 15%; in mid July, a prolonged labor dispute had left riders stranded for two weeks; and in September, AC Transit's Board of Directors voted to cut most weekend service

altogether (Cabanatuan 2010). Whatever the B-Line promised, it could not be any worse than AC Transit. Of course, for many in the East Bay, the idea of the B-Line was laughable. The nine-county Bay Area already had 27 separate transit agencies. Martha Lindsey, of the environmental advocacy group Transform, argued that: “people riding transit already have to keep track of [too] many different transit agencies” (Brown 2010). What, she might have asked, would be the point of adding yet another? Even more disqualifying than logistical concerns, was the issue of the B-Line’s origins. The idea of the B-Line, after all, was not the product of some popular referendum. Neither was it the result of some prolonged transit study. Rather, the B-Line was the brainchild of one middle aged non-fiction writer from the Berkeley Hills named Kristan Lawson-- a man with no planning credentials, and whose primary claim to fame was as a co-author on a children’s book on Darwinian evolution. By his own admission, Lawson had drawn up the map of the B-Line in less than a fortnight. That he had managed to recruit a small group of people willing to hand out copies of his fictitious creation, was itself surprising. When asked about what had prompted the B-line, Lawson’s response was the following:

...In 1994, I got an incredibly great deal on a house way up on the top of the Berkeley hills, something I normally I couldn’t afford. One of the deciding factors in buying this house was that there [were] two AC Transit bus lines one block away from the house. One was the 65 and the other was 8 line [...]. And then two years after I moved, they canceled the 8 line [...]. Then they started downgrading the 65 service. And the thing that spurred me on was that four months ago they said they’re going to cancel the 65 entirely on the weekends and possibly have it once an hour on the weekdays, which basically makes my life a living hell.[..] So I said why doesn’t someone make a better bus system. And I am one of these entrepreneurial people, and I said: “why don’t I make a better bus

system,” and so I took the bull by the horns (Kristan Lawson, Interview, December 7, 2010).

Even if the B-Line began as little more than a knee-jerk reaction to the perceived injustice of losing one’s bus line, at the heart of Lawson’s B-Line was something wholly genuine. As Lawson explained in an interview with the *Daily Californian*, the goal of the B-Line was simple: to offer an alternative. The idea was to imagine a transit system more “in tune with local community needs” and more in line with “the hopes and dreams” of people chastened by perennial service cuts, fare hikes and unpredictability (Brown 2010). More than this, the goal of the B-Line was to open up a conversation. While Lawson’s original map included seven clearly defined routes (Map 2), these lines, he assured people, were not set in stone. Instead, he explained, they were merely the opening gambit in what he hoped to be a broader debate over the type of transit system people in Berkeley actually wanted.

I understand that everyone is going come out and say this [should] go there and “this line is stupid” or “my house is there” and everyone is going to argue. I don’t care about the details. I just wanted to get it going. And if you all want to wrestle about is the details or how it’s funded. Fine. Wrestle away. If the City of Berkeley says we’ll give \$20 million to make the B-Line a reality, then great, throwaway my idea about it being privately financed. I was just trying to come up with alternatives (Kristan Lawson, Interview, December 7, 2010).

What are we to make of the B-Line? Given the focus of this dissertation, where, if anywhere, does it fit? Thus far, I have focused on a range of topics-- from transit’s legal geography (Chapter Three) and the rise of the transportation justice movement, (Chapter Five) to debates

focused on the working conditions of transit workers (Chapter Four). Across these ostensibly disparate chapters I have continually harped on two principal points. First, I have argued that debates over rights ought to matter for those of us interested in the geography of urban transportation; and, secondly, I have argued for the importance of seeing urban mass transit policies as central to securing a “right to the city.” This chapter continues with these themes, but focuses squarely on the question of “alternatives.” I begin by acknowledging that Lawson’s B-Line -- while certainly idiosyncratic-- actually reflects something quite important: namely, my sense that there is a deep and widespread yearning in the East Bay for an alternative to the transportation status quo. The question, for us, is what that alternative might look like, and what it might mean in the context of broader debates over the right to the city. Drawing on policy documents like AC Transit’s, *Designing with Transit: Making Transit Integral to East Bay Communities*, as well as on a number interviews conducted in 2010, I assess three of the most promising ideas in transit innovation in the East Bay. These include: Transit Oriented Development, Complete Streets, and Bus Rapid Transit. These initiatives have emerged in the East Bay as part of a continuing effort on the part of planners and transit advocates to rethink transit’s place in the region. As will become clear, these same initiatives also present their own challenges, tensions and contradictions. Returning to the idea of the “right to the city,” I chapter conclude by arguing that initiatives like Transit Oriented Development, Complete Streets and Bus Rapid Transit bear an ambivalent relationship to the idea of a right to the city. If anything, such initiatives highlight the limits of the right to the city as a framework. While it may be relatively easy to argue for understanding transit as central to a right to the city in the abstract, it is far more difficult to say what type of transit system can actually secure that right. More often

than not, initiatives like Transit Oriented Development, Complete Street and Bus Rapid Transit illustrate instances when rights to the city collide.

## The Alternatives

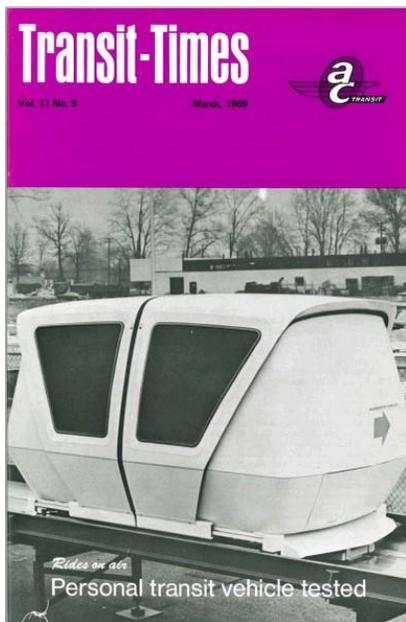


Image 5: *Ross' Test Vehicle*. 1969. Retrieved from: *Transit Times AC Transit*. 11(9).

Over the last 50 years, the Bay Area has produced its fair share of Kristan Lawsons-- individuals who have taken it upon themselves to draft often radical transit alternatives. In 1969 former Stanford University transportation technologist Howard Ross famously regaled the AC Transit Board of Directors with the promise of a revolutionary new idea in personal transit – a system consisting of small personalized transit capsules made to glide frictionlessly on a “linear accelerated guide way.” Using a compressed air system technology, Ross argued, the system would whisk passengers from one end of the East Bay to the other at speeds previously unimaginable (Image 5). The “AC” in AC Transit, writers for the Oakland Tribune quipped, would now stand for “Air-Cushion” (AC Transit could mean, 1969). In 1967, from the Palo Alto

headquarters of Tube Transit Inc., a Lockheed engineer named L.K. Edwards proposed the construction of an underground pneumatic vacuum tube running from Marin County in the north to San Jose in the south. Gravity Vacuum Transit (GVT), as Edwards called it, would allow passengers to travel underground at speeds of up to 95 miles per hour (Tube trains proposed, 1967). While these transit proposals are perhaps less famous than BART, they speak with equal force to the Bay Area's long tradition of fomenting transit experimentation.<sup>140</sup> For its part, this chapter will focus on the latest examples of transit experimentation in the Bay Area; namely, by assessing the East Bay's ongoing experience with Transit Oriented Development (TOD), Complete Streets and Bus Rapid Transit (BRT). Not unlike their forbearers, such initiatives have aimed at offering an alternative to the congestion, pollution and inefficiency that have long defined urban transportation in the East Bay. Unlike past experiments, however, these three initiatives have all emerged as uniquely focused on the question of land use. Proponents of TOD, Complete Streets and BRT all argue that in order to improve transit and offer a viable alternative to the private automobile, what is needed is a wholesale change in urban land use policy. In the East Bay, any discussion of what this change should be, or where projects like TOD, Complete Streets or BRT fit in that, must begin with AC Transit's *Designing with Transit: Making Transit Integral to East Bay Communities*.

Published in 2004, *Designing with Transit* was authored by AC Transit planner Nathan Landau and was written with a specific aim: to provide a blueprint for how to better integrate transit

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<sup>140</sup> Of course, the most famous example of such experimentation is the Bay Area Transit District itself. In 1962 voters in three Bay Area counties voted to issue a \$792 million bond to build the Bay Area Rapid Transit District. As Bill Stokes, BART's first general manager wrote in 1973, BART was more than a transit system it was "the partial embodiment of a new way of urban living" (Stokes 1963, 206). Coinciding with Lyndon Johnson's Great Society programs, BART came to capture a similar sense of optimism. BART was not without its critics, and economists like John Meyer, John Kahn and Martin Wohl would dedicate much of their 1975 classic *The Urban Transportation Problem* to warning state and local officials from further large scale investments in transit.

concerns into the East Bay's land use planning process. *Designing with Transit* begins by stating the problem in broad terms:

The American transportation system has become unbalanced, excessively reliant on the automobile. For decades, the system has developed to encourage mobility by auto, with transit an afterthought at best [...]. As a result, sprawling, low density development that can only be effectively served by automobiles has proliferated. Bus transit came to be seen by many as “last resort” transportation for the “transit dependent,” an image that further discouraged ridership and helped stimulated a spiral of decline. The outcome is that Americans take more of our trips by car than citizens of any other developed country, including Canada. The East Bay does not escape this automobile dominance. Yet there are foundations here for transit to build on. The older communities of the East Bay were initially developed around transit [...]. This history has meant that many of these communities continue to have land use patterns that make effective transit service possible... (Landau 2004, 1-3).

At the heart of *Designing with Transit* is a simple argument: public transit is most successful when communities plan their streets and land use in ways that prioritize transit service.<sup>141</sup>

Connected to this, is the belief that improving public transportation is too important and too complex a task to be left to transit planners alone. Instead, that task will require input from community members, real estate developers, zoning board members and elected officials. To this end, *Designing with Transit* contains a range of recommendations and policy suggestions that --

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<sup>141</sup> *Designing with Transit* begins with an important observation -- that for much of the 20<sup>th</sup> century, transit was not only a central component of urban life in the East Bay, but that the region, in fact, grew up and developed around transit. Whether people were using Key System streetcars or whether they were using ferries operated by the Southern Pacific, the East Bay's urban landscape--up to the 1950s-- was a landscape shaped and designed around the needs of the transit rider and the walking commuter (Landau 2004, IV). In many ways, the question at the heart of *Designing with Transit* is thus: how might the East Bay get back to that?

while differing both in focus and scope -- all aim at encouraging a range of actors to adopt land use policies that facilitate transit. *Designing with Transit* highlights three specific areas of land use reform that serve to do this. These included: developing transit based communities, developing better pedestrian corridors and improving street and traffic flows (read: TOD, Complete Streets and BRT respectively).

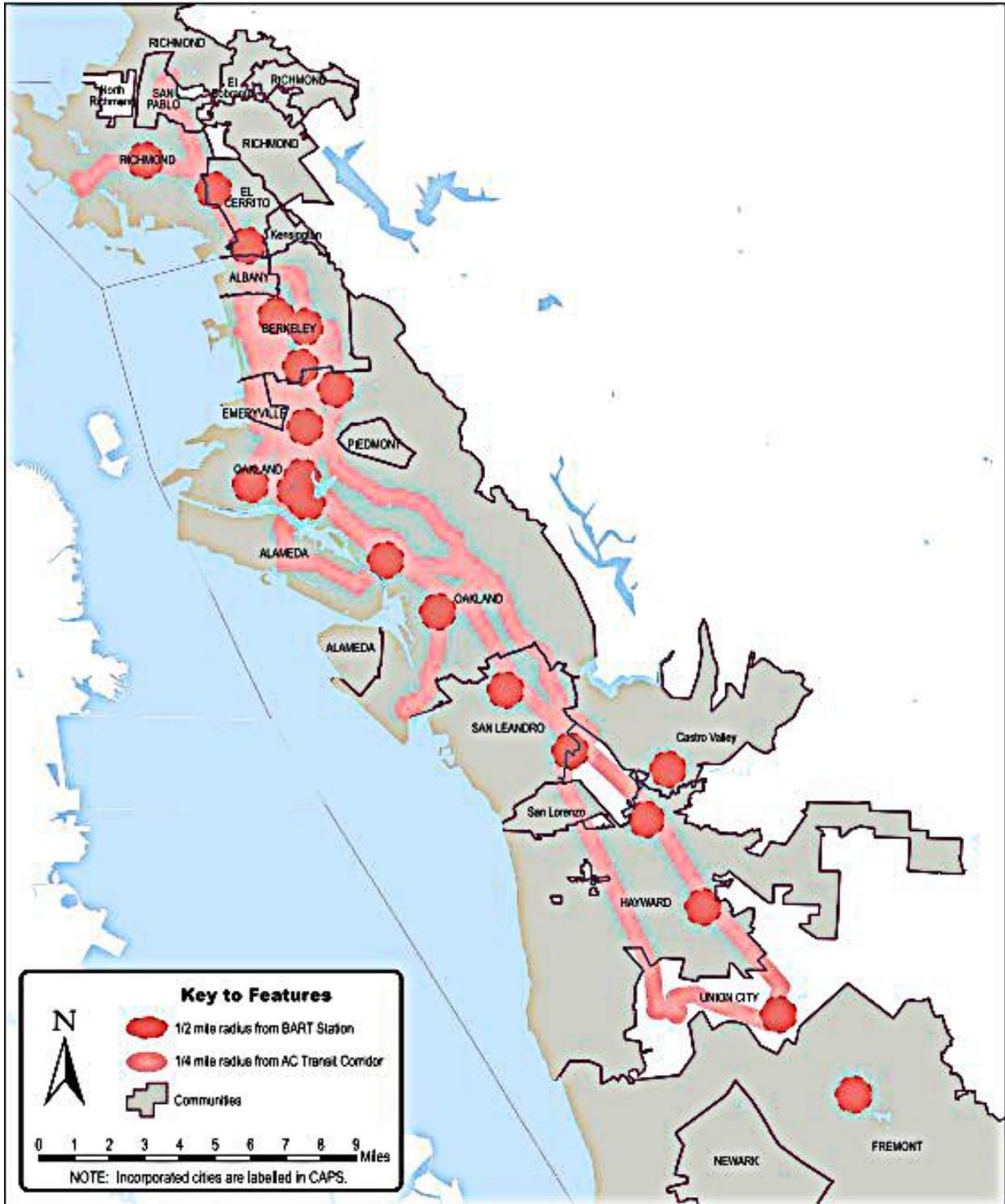
### **Transit Oriented Development**

*Designing with Transit* defines “transit based communities” as areas in which “residents, workers, and other users of the area can meet their daily needs by using transit and walking” (Landau 2004 3-8).<sup>142</sup> These are areas with high levels of transit service, and a mix of both commercial and residential uses. With an intent to encourage cities to develop “transit based communities,” reports like *Designing with Transit* offer a list of “best practices.” These include: scrapping or reducing parking requirements for new builds; relaxing zoning limits on high density projects; clustering housing, restaurants, and civic facilities in areas associated with high transit connectivity; and simply identifying the types of developments that are most appropriate for areas with potentially heavy transit usage. In many ways, the arguments for such “best practices” are obvious. Where parking is free or cheap, there will be little incentive for people to leave their cars at home. In areas where drive-through restaurants, car dealerships and big box stores predominate, promoting transit will be that much harder. Similarly, in the absence of dense residential neighborhoods with a mix of retail options (grocery stores, pharmacies and restaurants are particularly important) not only will bus transit be ineffective but people will have little option but to use cars to meet their daily needs.

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<sup>142</sup> *Designing with Transit*'s definition of “transit based communities” and the definition of what I call “Transit Oriented Developments” are interchangeable.

As many planners have noted, there are a number of areas in the East Bay that can already be classified as transit based communities. These include the areas around Berkeley's downtown BART station, the area surrounding Oakland's downtown bus transfer station and, most famously, Oakland's Fruitvale Transit Village. These areas are all defined by mixed retail and residential developments, a high density of land uses, and excellent transit connectivity. Of course, there are also large swathes of the East Bay where more is needed. Perhaps *Designing with Transit's* most important observation is that there is a need in the East Bay to be more creative in developing transit based communities. While a great deal of attention has been paid to projects like the Fruitvale Transit Village and other BART stations, there is no reason that transit oriented communities cannot develop around AC transit's 5 major trunk routes. These are the areas along: International Boulevard, Macarthur Boulevard, Broadway Street, Foothill Boulevard and San Pablo Avenue. Arguably, these corridors, which carry 40% of all AC Transit riders, are extremely well situated to become thriving, transit oriented communities (Landau 2004, 3-16) (see Map 3) .



Map 3: Priority areas for Transit Oriented Development around BART stations and along AC Transit's major corridors. Landau, Nathan. 2004. Retrieved from: *Designing with Transit*. (Landau 2004, 3-16).

## Complete Streets

In the effort to revive transit in the East Bay, the promotion of TODs represents only one effort among many. Another focus has been on the idea of walkability -- an issue to which AC Transit's *Designing with Transit* dedicates an entire chapter. Of course, the immediate question is, what does walkability have to do with transit? The answer, in many ways, is obvious. Where streets are unsafe, where walking is discouraged or where using bus transit means crossing a possibly dangerous intersection to board or transfer, fewer people will endeavor to take buses. There is no scarcity of areas in the East Bay to which these conditions apply. As in most cities, high traffic speeds, uncontrolled intersections and narrow sidewalks, are simply part of urban life in the East Bay. Where these conditions persist, encouraging transit is difficult. The question for planners in the East Bay has thus been a rather simple one (Landau 2004, 4-2): how can sidewalks and streets be designed in ways "that are [both] safe for pedestrians and functional for buses and other vehicle traffic"? How can streets be designed in ways that allow pedestrians to safely move between bus stops and various activity centers? To these questions, *Designing with Transit* offers a number of suggestions. These include: integrating transit stops into activity centers, installing sidewalk furniture, widening pedestrian walkways, and making sure that sidewalks are "visually interesting" so as to attract rather than repel users. Additionally, planners should making sure that bus stops are located in areas with adequate lighting; that pedestrian crossings are clearly demarcated and that traffic speeds are not excessive ( Landau 2004, 4-17). All such policies will not only make walking safer, but will make it easier for people to use and take advantage of transit. Of course, as noted in Chapter Three, planners must enact such policies in ways that do not open themselves up to even greater tort liability.

In recent years, many of these same policy suggestions have coalesced around the idea of the “Complete Street.” First coined in 2003 by writer and transportation consultant Barbara McCann, a Complete Street is a street that has been “designed to be safe for drivers, bicyclists, transit vehicles; and pedestrians of all ages and abilities” (Laplante and McCann 2008). In many respects, the idea and appeal of the Complete Street is obvious. Similarly, for its proponents, the logic of Complete Streets could not be any clearer. Experience alone has proven that streets designed for cars only: “limit transportation choices by making walking, bicycling and taking public transportation inconvenient, unattractive and too often dangerous” (National Complete Streets Coalition 2013). While Complete Street advocates have latched onto any number of policy suggestions, much of the practical emphasis of Complete Streets advocacy has centered on traffic calming policies -- particularly on urban arterials. In their essay “Complete Streets: we can get there from here,” Laplante and McCann (2008) focus on: narrowing travel lanes from 12 feet to 11 or 10 feet; tightening turning radii; eliminating free right turns; and installing landscaped center medians. By slowing traffic, these policies have proven to promote pedestrian safety and walkability -- both essential elements to promoting transit ridership.

The idea of promoting pedestrian safety is not new to the East Bay. Oakland and Berkeley, in fact, have long been at the forefront of such efforts. Oakland was one of the first cities in the county to develop an explicit plan to support pedestrian travel. In 2004, Berkeley passed a “Pedestrian Charter,” -- committing itself to promoting safe, convenient and comfortable walking conditions (Berkeley Pedestrian Charter 2010). Given what many planners have argued, these pedestrian friendly policies should not only be embraced by those who care about pedestrian safety, but they should also be embraced by those interested in promoting transit ridership.

## Bus Rapid Transit

To this already rich discussion, there is yet another popular focus of transit advocates in the East Bay -- namely improving the speed and efficiency of transit service itself.<sup>143</sup> When buses cannot remain on schedule, or when they are slow and inefficient, efforts to promote high density TODs or safe pedestrian walkways will mean very little. Bus delays and inefficiencies arise from any number of sources. They can stem from the time passengers need to embark and disembark or the time buses spend waiting at traffic lights or navigating congested streets. In tackling these challenges, reports like *Designing with Transit* have offered planners a number of strategies. These include: reducing on street parking; implementing proof of payment systems; making certain that signal timing is supportive of bus operations; placing bus stops at safe, efficient and convenient locations; and wherever possible implementing priority treatment for transit on key corridors.<sup>144</sup> In many ways, these policy suggestions constitute the backbone of a specific concept that is conspicuously absent from *Designing with Transit*, namely the idea Bus Rapid Transit (BRT). The National Bus Rapid Transit Institute (2013) defines BRT as an integrated system using “buses or specialized vehicles on roadways or dedicated lanes to quickly and efficiently transport passengers to their destinations.” The most common image of BRT is of a grade separated or otherwise distinguishable “transit-way” in which transit vehicles can travel uninhibited by traffic. In addition to exclusive “transit-ways,” BRTs often utilize level boarding platforms and proof of payment systems -- which save time by both eliminating the need for

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<sup>143</sup> Between 1989 and 2004 average speeds at AC transit fell by 15% (Landau 2004). Inefficient transit and service delays not only represent a waste of resources but they also “annoy passengers and discourage them from riding buses” (Landau 2004). As *Designing with Transit* noted, each hour of bus operation at AC Transit costs \$82, the ability to pick up more passengers per hour and offer quicker service not only benefits customers but benefits the agencies bottom line -- allowing the agency to expand service elsewhere

<sup>144</sup> Some of these policies have included: ensuring that transit streets have the appropriate characteristic for bus operations, assuring that road width is adequate but not excessive; making sure that bus stops are located to balance speed and convenience concerns (1000 feet apart recommended); providing curbside bus stops; installing bus hubs where necessary and paint the curb at bus stops red (Landau 2004).

buses to ‘kneel’ or the need for drivers to collect fares. Perhaps the most famous examples of successful BRT systems are in Curitiba, Brazil and Bogota, Columbia, cities that have designed their entire urban transit systems around these principles. Successful BRT projects have arisen in Los Angeles, Miami, Cleveland and numerous other cities, and have often been followed by increased ridership (National Bus Rapid Transit Institute 2013).

The first public effort to develop a BRT system in California’s East Bay emerged in 2007 after AC Transit released a Draft Environmental Impact Statement for a proposed BRT route running from San Leandro to Berkeley. The three cities to be affected -- Berkeley, San Leandro and Oakland-- immediately hosted a series of public debates on the proposal. In many ways, the 2007 proposal actually built upon the earlier findings of a federally mandated Major Investment Study (MIS) that the agency had undertaken in 1999 (AC Transit Board Memo 2010c). That study focused on improving service along AC Transit’s major transit corridors and weighed the possibilities offered by Light Rail, Express Buses and a BRT route. The study found that a North-South BRT route ultimately offered the best balance between cost and efficiency. BRT, the study noted, had “the potential to offer rail like service without the expense of rail” (Cambridge Systematics Inc. et al. 2002, 39). Drawing directly from this study, the AC Transit’s 2007 BRT proposal was quite specific (Gordon 2007, AC Transit Board Memo 2010c). The proposal called for the constructing of a transit corridor in two segments -- one segment along Telegraph Avenue between Berkeley and Oakland and a second segment on International Boulevard between Oakland and San Leandro. Apart from bus only lanes -- which would be the system’s key innovation-- the proposal also included the construction of median stations with level boarding; the establishment of transit signal priority; the development of a proof of payment system; the construction of shelters; and the development of a real-time traveler

information system. Since 2007, this original BRT proposal has been amended numerous times and in almost every case it has been scaled back.<sup>145</sup> Most notably, in 2010, the Berkeley City council voted against allowing dedicated bus lanes in the Berkeley section of the BRT route. Despite hurdles, the latest estimates suggest that construction on the BRT could begin in 2014, with actual service beginning in 2016 (AC Transit Board Memo 2010c; Matier and Ross 2013). If completed, the BRT will be the most ambitious attempt since the construction of BART to increase the speed and overall efficiency of transit in the East Bay.

Transit oriented neighborhoods, better pedestrian corridors and BRT projects have been proposed in places like the East Bay as a way to rebalance an inarguably unbalanced urban transportation system. With nearly 70 years separating us from the end of World War II, the legacy of the postwar automobile boom remains an inescapable reality -- as do its attendant problems of congestion, pollution and waste. Partly addressing these problems, TODs, Complete Streets and BRT can be seen as the latest and best efforts toward an alternative. While these strategies differ in emphasis, each shares a fundamental insistence on improving transit's viability by transforming the city itself. In many ways, cities like Oakland and Berkeley have been at the leading edge of these alternative visions for transit. Oakland's Fruitvale Transit Village, has become a nationally recognized example of a successful TOD. Berkeley's dedication to pedestrian safety and accessibility is manifest in its "Pedestrian Charter" and its generous regulations regarding clear path sidewalk clearance for the disabled. In 2014, construction is scheduled to begin on the East Bay's first BRT line along Broadway and International Boulevard. Initiatives like TOD, BRT and Complete Streets, however, have not

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<sup>145</sup> In 2010, Berkeley's City Council voted against the inclusions of dedicated bus lanes along Telegraph Avenue. In 2012 City Council members in San Leandro and Oakland also voted to limit the use of dedicated bus lanes. While the original proposal had called for 18 miles of dedicated bus only lanes, by 2013, the most BRT advocates can expect is 9.5 miles (Matier and Ross 2013)

been without their problems. At the local level, some of these challenges have been financial. More commonly, however, these challenges arise from both the limitations of the street itself and the difficulty of building community “buy-in”. Drawing from interviews I conducted with planners, bus riders, and transit drivers, I now review some of these tensions, contradictions, and challenges.<sup>146</sup>

### **The Paradox of the Complete Street and BRT**

One of the central demands of Complete Streets advocates is for slower traffic speeds. As advocates like Laplante and McCann have argued: “speeds much over 30 mph in urban areas are incompatible with pedestrians and bicyclists, if not downright dangerous” (Laplante and McCann 2008, 26). In attempting to make streets more user friendly for pedestrian, reports like AC Transit’s *Designing with Transit* have proposed a range of strategies. These include everything from minimizing the width of roadways and installing center medians to adding signals where none existed before. Even minimal efforts to slow traffic speeds, so the argument goes, not only

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<sup>146</sup> At the national level, support for initiatives like TOD, Complete Streets and BRT, has only grown -- taken up by groups like Smart Growth USA, PolicyLink, the National Coalition for Complete Street and the National BRT Institute. Support for such initiatives has even come from the federal government. In 2009, the Housing and Urban Development Administration (HUD), the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) launched a joint initiative under the name: Partnership for Sustainable Communities. Its goal: “to help communities improve access to affordable transportation housing while protecting the environment” (US EPA 2013). Between 2009 and 2012, the partnership granted over \$3.5 billion to regional and local initiatives which aimed to: “develop, safe economical and reliable transportation,” “expand housing choices that increase mobility,” “encourage transit oriented mixed use development”, and to invest in safe, healthy and walk-able neighborhoods (Partnership for Sustainable 2012). These projects have ranged from TOD projects like Denver’s La Alma/Lincoln Park Development, and the Twin City’s Central Corridor Light Rail project to BRT projects like Cleveland’s Euclid Line (2012,12). Although the Partnership for Sustainable Communities was defunded in 2012--largely through Republican prompting-- there is little indication that the movement for sustainable communities will wane (Partnership for sustainable communities 2010). As one sustainability advocate noted following the defunding of the partnership, the “smart growth ethic” has already permeated the work of many “of the agencies involved” and will remain an important part of the projects they choose to fund (Snyder 2012) Whether we look to documents like East Bay’s *Designing with Transit* or to federal initiatives like the Partnership for Sustainable Communities, there is real sense that TOD, BRT and Complete Streets are not only here to stay, but that they have escaped the fate of so many other more ephemeral buzzwords.

have a significant impact on reducing automobile fatalities<sup>147</sup> but they can enhance the willingness for residents to walk and use transit. While there are certainly costs to slower traffic, these costs, many argue, are far outweighed by the benefits to livability. Laplante and McCann (2008) give us the following situation:

For a 5 mile trip along an arterial corridor with a 45 mph travel speed, the added travel time with a reduced speed of 30 mph would be 2.5 minutes. In the overall scheme of things, how important is this potential delay when compared to the proven safety benefits and the city livability advantages that come with slower traffic speeds (Laplante and McCann 2008, 26).

In 2010, I interviewed a senior planner at AC Transit, who offered a far less rosy picture of Complete Streets. Despite supporting the general idea, the planner noted a fundamental tension between the benefits of lowering traffic speeds and the required speed needed to operate transit effectively:

Slower is great. Slower is safer, right? But slower also means that our buses are also traveling slower which has a number of [implications], one, it probably is going to cost more for us to meet our set frequencies, if we have a bus route that has a 30 minute frequency and it's 10 miles long and we probably operate that service with eight buses, or something like that, well if they start looking at slowing down those streets our buses are going to go at a much slower speed. We need to put many more buses out there to maintain the frequency and that is not a cost that a regular driver [of a private

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<sup>147</sup> Laplante and McCann note that survival rates in automobile collisions correlate strongly with automobile speed. They cite a study showing that a pedestrian hit by a car traveling 20 mph has an 85% survivability rate. The likelihood of survivability drops to 15% in the same collision with a car traveling at 40 mph (Laplante and McCann 2008, 26).

automobile)] sees -- maybe they are late to work, maybe they have different opportunity costs, but not a direct dollar cost that we have and so that is a big problem that we see with Complete Streets. There's ways that you can probably make Complete Streets work and still get transit some priority but the local jurisdictions don't want to put in that type of development (Senior Planner, Interview, October 13, 2010).

For planners at AC Transit, the idea of Complete Streets thus presents a "catch 22." On the one hand, the aim of Complete Streets is to produce street level conditions that serve transit better -- it does this by giving special attention to both pedestrian safety and walkability. On the other hand, these same conditions also can result in transit delays and greater costs. While reports like those of Laplante and McCann might argue for the importance of adding bike lanes, widening sidewalks and adopting traffic calming strategies, these same propositions can have the unintended consequence of actually making transit slower and more costly to operate. In 2000, for example, the Oakland City Council voted to install bike lanes on a 1 mile stretch of Macarthur Boulevard. To do so the Council eliminated two lanes of traffic (Macarthur Bike Lanes Approved, 2000). While Macarthur Boulevard might now be called a Complete Street, the change has actually functioned to make transit along that stretch far less cost efficient. As the senior planner explained:

..we used to have two lanes in each direction and those are places where we want to put out a limited stop service, like a rapid bus service, and we can't, because the rapid bus can't pass the local bus because there is only one lane of traffic, so we can't give people express bus type of service, that is equivalent to the car because we can't get our buses to go that fast ... we used to be able to stop and cars could go around in the other lane, cars could pass us, and now we are all just in one lane, with a total vehicle speed that's maybe

five miles slower than what it used to be and so we have more costs . It's weird because those are things that positively perceived in community planning these days, but they are not taking into consideration the delays on transit and that has a real cost to us (Senior Planner, Interview, October 13, 2010).

For agencies like AC Transit, service delays come with substantial additional operating costs -- whether those delays are, ironically, the result of a more "complete street" or something else. Increased costs not only impose more fiscal constraints, but more importantly they undermine transit's ability to attract new riders. In the 1960s, Meyer, Kain and Wohl (1965, 102) noted that any "substantial diversion" of commuters from automobiles to transit hinged upon a very clear metric: transit's ability to provide commuters similar or shorter "home-to-office travel times." Where transit service is characterized by unreliable, slow or uncomfortable travel, there is little hope that any such diversion is possible. In many ways, the idea of BRT has aimed at addressing this exact problem -- offering to attract riders with faster service. Like Complete Streets, however, BRT projects present their own paradoxes, contradictions and challenges. The case of BRT in Berkeley is a case in point.

In 2010 Berkeley's City Council voted against allowing dedicated lanes along Telegraph Avenue in Berkeley. The vote came after sustained resistance from a number of individuals and groups concerned with increased congestion and losses of on-street parking. By functionally reducing four lanes of automobile traffic on Telegraph Avenue to two, the BRT's proposed effects on parking were particularly contentious. Roland Peterson, the executive director of the Telegraph Avenue Business Improvement District argued that preserving on-street parking was crucial to the local business community. He argued, that not only do on street parking spaces matter for businesses who rely on customer being dropped off in cars, but these same parking spaces

provide a necessary staging area for delivery trucks (Cuff and Oakley 2010). Joyce Roy, a long time transit activist, but staunch opponent of BRT, noted that with less off-street parking and fewer lanes, surrounding neighborhoods might be inundated with unwanted cars searching for a place to park. However beneficial to transit riders, a significant number of people in Berkeley believed that the BRT would not only slow auto traffic and take away street parking, but fundamentally “mar the character of Berkeley neighborhoods” (Cuff and Oakley 2010).<sup>148</sup>

While a good deal of resistance to the BRT in Berkeley came from business owners, and neighborhood groups, resistance also came from less predictable places. One example is Chris Mullen of Berkeley’s Center for Independent Living (CIL). As a transit trainer for the East Bay’s disabled and elderly, Mullen’s concerns were with the BRT’s ability to meet the needs of his clients. With the aim of increasing transit speeds and frequency, the BRT planned to relocate a number of bus stops along Telegraph. Instead of the customary one bus stop for every 1000ft (1/5 mile), the BRT’s plans would amend that to one stop every 1,636 feet (1/3 mile) (2012, 4) . Speaking on behalf of the East Bay’s disabled community, Mullen’s critique of the BRT was understandable: “if they are going to make bus stops from two blocks to four block apart that really hurts the population [I work with], two blocks is not that big a deal if you can walk [...], but two blocks in a manual wheelchair might as well be a mile, that’s a long way to go.” The

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<sup>148</sup> Instead of dedicated lanes, Roy and others argued for employing what is called “curbside BRT” and the use of queue jumping lanes. Curbside BRT restricts the use of right lanes to buses and right turning cars only (Roy 2012a, Roy 2012b). Despite offering some time savings for transit vehicles, a study like *Designing with Transit*, and much of the literature on Complete Streets actually condemn this very practice for safety reasons. Of course, for BRT boosters like AC Transit’s lead planner Jim Cunradi, without dedicated lanes, BRT cannot do what it is intended to do. The logic of BRT is straightforward: “the more bus only lanes along the route the faster the buses will be able to travel” (Cuff and Oakley 2010). For BRT to be effective, and to reach the speeds that make it an attractive option, not only are dedicated lanes and passenger loading platforms necessary but they are also necessary because they insulate buses from slow traffic As East Bay transit activists Steve Geller has argued: “The reason for spending all the money and effort on the Bus Rapid Transit project is to make buses faster to attract the people [...] If free fares or hybrid buses would do the job, fine, but we keep hearing that people won’t ride the buses because they are too slow” (Geller 2008).

problem with BRT was not only that it would eliminate parking spaces but that it would reduce the number of bus stops and thus make it harder for the elderly and the disabled to use public transit (Chris Mullen, Interview, November 10, 2010).

Advocacy for both Complete Streets and the BRT in the East Bay has been aimed at accomplishing much the same thing -- increasing transit ridership and promoting more sustainable neighborhoods. Both initiatives start from the same premise; namely: that there is little point in pumping more money into transit without demanding more fundamental changes in land use. For boosters of BRT and Complete Streets, transit's success can only be achieved by reconfiguring the street and the city itself. Given this, what this reconfiguration should look like can be rife with contradictions, and unintended outcomes. As with Complete Street, the emphasis on traffic calming measures may encourage walking but it also may mean costly delays for transit. While projects like BRT would likely make transit faster and more attractive to use, they may well impose costs on surrounding businesses and neighborhoods. Ironically, the BRT's emphasis on speed and quicker headways also had the effect of rendering transit less accessible to the disabled and the elderly-- the very population for whom transit is a fundamental lifeline. How, we might ask, do transit planners and proponents of Complete Streets or BRT, understand such paradoxes? For some transit planners, part of problem is simply that streets cannot accommodate everyone, there is simply not enough space. As one senior planner at AC Transit stated:

one problem -- especially in older neighborhoods-- is that you just don't have enough property to meet everyone, you do not have enough to have a bike lane, a bus lane and traffic and parking, you can't fit it all into one street, and that's the challenge we are facing (Senior Planner, Interview, October 10, 2010).

In the East Bay, almost every inch of the street is spoken for. Buses traditionally need at least 11 to 12 feet of lane width to operate effectively (Landau 2004, 5-12); safe bike lanes require at least 5 to 6 feet (Oakland City Bike Plan 2007); and in accordance with the accessibility guidelines of the Americans with Disability and Architectural Barriers Act, sidewalks and other publicly accessible routes must have a minimum 4 feet of clearance width-- enough for one wheel chair to operate without difficulty (ADA/ABA 2004).<sup>149</sup> In sum, when efforts are made to expand sidewalks, or add bus stop, or when efforts are made to widen bike lanes or create dedicated transit lanes, planners find that there is simply not enough space to do it all. For other planners, however, spatial limitations are only part of the problem. Transit planners face a much larger and far more challenging predicament. As one AC Transit senior planner noted:

the biggest challenge that we have in planning is that we don't own the streets... so in order for us to get anything done we have to talk to the city and that means anything, that means all that ADA stuff, if we want to put a new bus stop in, if it requires the removal of parking well we have to work with the city, we don't have that control (Senior Planner, Interview, October 10, 2010).

To quote Joyce Roy, the problem is different: “[ it is that] the streets of Oakland belong to the people of Oakland” and *not* to transit planners (Roy 2012a). The problem is not simply one of

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<sup>149</sup> To comply with the Federal Americans with Disability Act (ADA) and the Architectural Barriers Act, newly constructed sidewalks that serve the general public must be accessible to people with disabilities. Under the ADA, accessible sidewalks are defined as at least 4 feet in width. Oakland and Berkeley have gone beyond this 4 feet minimum. Oakland requires 5 feet of clearance and Berkeley requires 6 feet of clearance – enough for two wheelchairs width to width (Senior Planner, Interview , October 13 2013). Where street furniture encroaches on that clear path, whether it is bench or a bus stop, then even more space is necessary. Eileen Ng who works for United Seniors of Oakland and Alameda County noted the difficulty in explaining to seniors -- who love shelters when it's raining – that sometimes merely a need for a shelter is not sufficient. Where the sidewalk may be too narrow or where a shelter might encroach on wheelchairs clear path, installing a shelter will be impossible. Due to transit ramp technology, agencies like AC Transit also require a boarding area of 8' (W) x 5'(L), this can also make installing a shelter impossible. (Eileen Ng, Interview , October 20 2012; Landau 2004).

insufficient space, it is also a lack of control. The problem is not only that the street has been parceled off, but that any effort to change that arrangement means coming up against a democratic process in which the demand to improve transit encounters other demands for more parking, for wider bicycle lanes, or for less automobile congestion and so on.

### **The Paradox of TODs**

If the story of Complete Streets and BRT is one of unintended consequences and paradoxes, the story of Transit Oriented Development is little different. Like proponents of Complete Streets or BRT projects, TOD enthusiasts start from the premise that to make transit more attractive and more efficient, cities must dramatically change their land use priorities. According to the national nonprofit, Reconnecting America<sup>150</sup> -- a nationally recognized leader in advocating for TODs -- successful TODs include “a mix of uses that makes it possible to get around without a car, a greater mix of housing types and transportation choices , an increased sense of community among residents and a heightened sense of place” (Reconnecting America 2009, 1).

Oakland is home to one of the nation’s more successful TODs -- the Fruitvale Transit Village. The Fruitvale Transit Village was initiated in the late 1990s by The Unity Council, an Oakland based Community Development Corporation. Located in the heart of Oakland’s Latino neighborhood, since completion in 2004 the Fruitvale Transit village has not only served to connect BART with the rest of the community but it has added to the neighborhood’s stock of retail, residential and public space (Reconnecting America 2009, 6). While Fruitvale Village has been hailed as a success, in many ways it has done little to assuage increasing concerns that

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<sup>150</sup> Reconnecting America is the managing partner of the Center for Transit Oriented Development. According to its website (Reconnecting America 2013), Reconnecting America and the Center for Transit Oriented Development are “the only national non profits funded by Congress to promote best practices in transit oriented development.”

TODs might reinforce some of the same behaviors and patterns they have been developed to ameliorate -- particularly when they result in gentrification. These concerns have been condensed in reports like *Mapping Susceptibility to Gentrification: The Early Warning Toolkit* (Chapple 2009); *Maintaining Diversity In American Transit Rich Neighborhoods* (Pollack 2010); and *Case Studies for Transit Oriented Development: Case Studies That Work* (Reconnecting America 2009). Each of these reports points to a paradox. That paradox is this: “the people who are attracted to transit rich neighborhoods -- and have the money to pay more to live there don’t use transit as much as less affluent people who can get priced out” (Snyder 2010). In *Maintaining Diversity in America’s Transit Rich Neighborhoods* Pollack et al. (2010) trace the all too common and all too unfortunate life cycle of TODs. New transit stations lead to increased land values and accelerated housing turnover. The typically higher income households that take up residence around or near the station are less likely to use transit and more to use private motor vehicles. In some of the neighborhoods included in Pollack’s study, new transit stations actually led to falling rates of transit ridership (Pollack et. al 2000, 4). Thus, there is a deep irony to TODs. Rather than rewarding communities that have long been doing the right thing-- living in dense urban areas and using public transit --TODs can punish these communities, banishing the former residents of places to lower cost exurbs where car ownership is almost a necessity.

In the East Bay, transit alternatives like Complete Streets, BRT and TODs represent the latest efforts toward addressing persistent and familiar problems. They represent efforts to reverse urban sprawl, to encourage urban environmental sustainability, and to catalyze what Jane Jacobs (1961) called the desperate need for “auto attrition.”<sup>151</sup> To the degree that such policies have

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<sup>151</sup> In her classic work, *The Death and Life of American Cities*, Jane Jacobs (1961) contrasted the policies of automobile attrition with the more common reality of what she called urban “erosion” -- the process by which automobiles demand ever more space and accommodation. What was one lane suddenly expands into two. Attrition,

been implemented in the East Bay, progress has been slow. Such policies have not only faced outright hostility and opposition, but more often than not, they have run up against a set of challenges and paradoxes. The story of TODs is a classic example. Rather than encouraging transit ridership, TODs can actually do the opposite -- especially when there have been no set asides for affordable housing. As David Harvey (2000, 104) has argued, this paradox is not rare. It is the same paradox that doomed the Pruitt Igoe housing project, and Ebenezer's Garden City movement -- projects undermined by the very processes of capitalist accumulation they were intended to control.

There is yet another way to view the challenges that face projects like Complete Streets, TOD and BRT, and that is to return to the central complaints of AC Transit planners themselves. For planners at AC Transit, the problem is a simple one: it is that transit planners do not "own the street." The very changes required to make transit work, altering the city's land use priorities -- are ones over which transit agencies themselves have little control. When, for example, AC Transit wants to install dedicated bus lanes, when they want to install timed signals, or even when they want to install a new bus stop -- not only must they seek the permission of the municipality, but they must navigate a complex landscape of municipal codes, community groups and an array of legal rights. While mixed use developments and higher density residential projects along AC Transit's five major transit corridors might help AC Transit ridership, the fate of such a project will have little to do with the goals of transit planners. Instead, its fate will hinge with on the actions of private land owners, on the approval of municipal councils and

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on the other hand, encompassed policies that "would steadily decrease the number of persons using private automobiles in a city" -- decreasing both "the need for cars" and "decreasing [their] convenience." Such policies, Jacobs argued, were probably "the only realistic means by which better public transportation can be stimulated" (1961 364).

zoning boards, on investment from private developers, and, most “unfortunately” on the consent of neighborhood associations and the actual people affected.

Throughout this dissertation I have argued for understanding transit as central to exercising one’s right to the city -- whether that is simply a right to access the city or a right to have a say in how cities look and feel. I have argued that for the transit dependent, in particular, equitable and accessible transit is a central part of making that right a reality. From the perspective of planners, however, the idea of the right to the city might actually mean something altogether different and perhaps something far less positive. When planners bemoan the fact they do not “own the street,” when they lament a community’s opposition to dedicated bus lanes or high density developments, or when they complain of onerous restrictions on placing bus stops (see Chapter Three), they are often bemoaning the very things that the right to the city celebrates: the rejection of top down planning and the democratic rights of people to have a say in how their city is planned. While a more efficient and effective transit system might enable one’s right to the city, the changes required to realize that system can come up against the democratic rights of other community members -- whether that resistance is based on fear of slower traffic, fewer parking spaces or justifiable concerns over potential gentrification.

Debates over transit alternatives in the East Bay highlight one of the central challenges facing advocates of the right to the city idea -- the challenge of implementation. How, we are left to ask, can we turn a popular and inspiring slogan into a set of tangible and clear practices on the ground. As a slogan and as a rallying cry, the right to the city remains an invaluable addition to the lexicon of urban struggle. It has been a rallying cry against the idiocy of urban life and policies of exclusion. It has and will continue to engender the very passions that matter for groups and individuals that have been marginalized in the city. The problem, however, is that

such passions are expressed in a world rife with competing passions and rival demands that speak equally to the goals and broad aims of the right to the city idea. This chapter has made this conflict apparent by highlighting the degree to which transit policies that might secure a right to the city, especially for the transit dependent, are the very policies shot down by residents expressing their democratic right to shape their own communities. In many ways, we saw a similar conflict in Chapter Four-- where it appeared in the form of a debate between transit labor and transit riders. In both cases, the implicit argument is clear-- that for those who care about the right to the city idea, it is not enough to leave it at the level of the "capacious," the radically open, or the abstract (Mitchell and Heynen 2009, 616). Where we refuse to pin the idea down, we invariably find places in which we must weigh competing rights to the city and where we must do so with little help or guidance with respect to a theory of justice (Attoh 2011). The cases cited in this chapter not only highlight the challenge of implementing the right to the city but they also highlight the profound irony of that challenge for geographers -- that despite the right to the city's roots in geography and despite its popularity with certain geographers (Harvey 2006; Marcuse 2009; Mitchell 2003) the problem of implementing the right to the city is a geographic problem. As an idea and a slogan it often stumbles in exactly those moments when it is asked to touch down on the ground. It stumbles in exactly those instances when we are asked to concretely consider the space of the street itself and whether people's right to a parking space, trumps the top-down plans of a transit agency to use that same space to secure the rights of the transit dependent and transit users more generally. In many ways, the tension inherent in implementing the right to the city idea ought to be quite familiar. In fact, it was this same tension that we first observed in Chapter Two -- a tension between a utopianism of form and a utopianism of process. Where I argued that this tension defined the so called "urban

transportation problem,” I now judge that it also defines the challenge of implementing a right to city.

## **Conclusion**

In Ernest Callenbach’s 1975 science fiction thriller *Ecotopia*, the Bay Area and the Pacific Northwest have seceded from the United States. Callenbach’s protagonist is an American journalist named William Weston who has been sent to the break-away nation -- now renamed *Ecotopia* -- to report on what he sees. *Ecotopian* society, he learns, has developed in an altogether different direction. Against the crass materialism, waste and environmental negligence of the United States, *Ecotopian* society has developed around the principles of mutual aid and environmental stewardship. Visiting San Francisco, *Ecotopia*’s capital city, Weston’s impressions are notable:

What I found, when I had gotten over my surprise at the quiet, was that Market Street, once a mighty boulevard striking through the city, down to the waterfront, has become a mall planted with thousands of trees . The ‘street’ itself, on which electric taxis, minibuses and delivery carts purr along, has shrunk to a two lane affair. The remaining space, which is huge, is occupied by bicycle lanes, fountains, sculptures, kiosks and absurd little gardens surrounded by benches. Over it all hangs the almost sinister quiet, punctuated by the whir of bicycles and cries of children.

Scattered here and there are large conical roofed pavilions, with a kiosk in the center selling papers, comic books, magazines, fruit juices and snacks. The pavilions turn out to be stops on the minibus system, and people wait there out of the rain. These buses are comical battery driven contraptions, resembling the antique cable cars that San

Franciscans were once so fond of. They are driverless, and are steered and stopped by an electronic gadget that follows wires buried in the street. To enable people to get on and off quickly, during the 15 second the bus stops, the floor is only a few inches above ground level; the wheels are at the extreme ends of the vehicle. Rows of seats face outwards, so on a short trip you simply sit down momentarily, or stand and hang onto one of the handgrips. In bad weather fringed fabric roofs can be extended outward to provide more shelter. These buses creep along at around 10 miles per hours but they come every five minutes or so. They charge no fare. When I took an experimental ride on one, I asked a fellow passenger about this, he said the minibuses are paid for in the same way as streets -- out of general tax funds. Smiling, he added that to have a driver on board to collect fares would cost more than the fares could produce (Callenbach 1975, 12).

Published in 1975, Callenbach's *Ecotopia* was as much a proposal for a new society as it was a novel. Part science fiction thriller and part social critique, Callenbach's imagined *Ecotopia* seems strangely prescient of a "Complete Street." In *Ecotopia*, the Bay Area's previously congested avenues have been replaced by pleasant greenways and bicycle paths. Transit agencies that had once been characterized by perennial budget crises are now defined by stability and automation. Private automobiles have all but disappeared -- replaced by buses and bicycles. In *Ecotopia*, there are no traffic jams, because there is no traffic. Callenbach's description should feel familiar. In many ways, it echoes in part Kristan Lawson's description of the B Line, or Edwards' description of a GVT system or Ross' description of an "accelerated guideway" system. Against the backdrop of congested streets, pollution and inefficiency, Callenbach, Edwards, Lawson and Ross reach into their imagination and describe a solution. Each in their own way, also describe

worlds in which a great deal has been bracketed and where a great deal is missing. In the same way the Lawson's map of the B-Line says nothing about whether stops on the proposed Shasta Grizzly loop meet ADA requirements, so do we hear nothing about whether the streets of Ecotopia meet the needs of the disabled or if, like the streets of Oakland, they too require that sidewalks have five feet of clear path clearance. In the same way that Edwards or Howard Ross make little mention of eminent domain issues, subsoil rights, or the impact of their projects on the so called "character of various neighborhoods" so too does Callenbach make no mention of zoning boards, neighborhood associations, business improvement groups or transit justice organizations. In such transit alternatives, there is little talk of rights, of entitlements or competing interests. There is little mention of conflict or the democratic process. There is little talk about who owns the street or who *should* own the street. There is little recognition of the messiness of the street. What this chapter has tried to show is that for proponents of TODs, Complete Streets and BRTs these same luxuries do not apply. Such proponents must engage directly with debates over competing interests, competing rights, and debates over how best to parcel the limited space of the street itself. While transit planners in Ecotopia may "own" the streets, in the real East Bay they do not. Instead, transit planners, BRT advocates, TOD boosters, and proponents of Complete Streets must chart a tortuous course defined by tensions, contradictions and paradoxes.

This chapter began by acknowledging that Lawson's B-Line -- while largely ignored -- actually reflected something quite important: namely, a deep and widespread yearning in the East Bay for an alternative to the transportation status quo. The question, for me, has been what might that alternative look like, and what that might mean in the context of broader debates over the right to the city. While much of this dissertation has argued for understanding transit as central to

exercising a right to the city, the question of what type of transit system best secures that right, is a complicated one. This chapter has assessed three of the East Bay's most promising transit innovations: TOD, Complete Streets and BRT. For advocates of the right to the city interested in promoting better transit, such projects are easy to embrace. They promise quicker and more efficient transit and they embody a commitment to designing cities where transit is central. On the other hand, where TOD projects are shown to be part causes of gentrification, and where some popular and democratic sentiment seems to run counter to projects like BRT, and Complete Streets, these initiatives seem less an enabler of a right to the city than a potential impediment. While a more efficient transit system might enable one's right to the city, the changes required to realize that system can come up against the equally valuable democratic right of communities to say no. TOD, Complete Streets and BRT projects, in many ways, not only force us to confront instances where rights to the city collide but they also force us to confront the potential limits of the right to the city idea.

## Conclusion: Rights in Transit

I think the idea of framing something in terms of a right is extremely complex [...]. How do we exercise that right? How do we legislate it? Say we want to recognize it. You [try and] write the law -- it isn't easy [...]. The ones we're use to now, everyone understands and nobody challenges, but [...] when you start inventing new ones [...]. It's hard to talk about things in terms of rights. I would almost rather just say: let's just try and get a better transit system for everyone.

-AC Transit board member. November 12, 2010.

Note this newspaper report from the Midlands of England: Complaints from passengers wishing to use the Bagnail to Greenfields bus service that “drivers were speeding past queues of up to 30 people with a smile and wave of a hand” have been met by a statement pointing out that “it is impossible for the drivers to keep their timetables if they have to stop for passengers.”

-Patrick Ryan, “Get rid of the people, and the system runs fine.” September 1977  
*Smithsonian*

The first quote is from an interview I conducted with an AC Transit board member in November, 2010. At the time, AC Transit was in the midst of a crisis. The agency faced a \$52 million deficit, a prolonged labor dispute, and a State Legislature wholly unable or wholly unwilling to assist. Only two months before, AC Transit had approved yet another round of service cuts. These cuts, in particular, promised to be the deepest in recent memory (see Appendix B: Graph 1). For many in the East Bay, the fear was no longer about more bus delays or higher fares, but

rather it was whether AC Transit would remain in service at all. During the interview the board member bemoaned the service cuts but argued, quite predictably, that AC Transit's hands were tied. Toward the end of interview, I brought up the issue of rights, and the idea of the right to the city. In the previous weeks many of the transit activists that I had talked to had made it clear that they believed transit to be a right and a right that was worth defending (Lindsay Imai, Interview, October 19, 2010). The board member's response was an interesting one. Talking in terms of rights, he noted, was hard. More important than rights, he argued, was simply getting "a better transit system for everyone." Of course, this view is a curious one. What constitutes "a better transit system?" Better for whom? And moreover, who decides? Perhaps a better transit system is, ironically, like the one described in the second quote -- a transit system that is perfectly on time but that carries no passengers.<sup>152</sup> Part of what becomes clear in this dissertation is that there is no such thing as a better transit system. What exists instead, are numerous debates and struggles over the idea of a "better transit system." In those debates and struggles, rights and rights talk are unavoidable components.

This dissertation's argument has been twofold: first, I have argued that debates over rights ought to matter for those of us interested in the geography of urban transportation; and, second, I have argued for the importance of seeing urban mass transit policies as central to securing a "right to the city." In some ways, of course, the AC Transit board member was absolutely correct -- talking in terms of rights is hard and rarely straightforward. Despite being "hard," I argue that rights, rights talk and the idea of the right to the city are far too important to ignore -- especially with respect to transit. Struggles over rights are central to understanding why urban transit looks

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<sup>152</sup> Herman Goldstein uses this quote in his 1979 critique of policing models that defined "better policing" procedurally rather than in any substantive terms (1979, 236). In some ways, however, transit operators like Anthony Rodgers might argue that this quote's description of transit service in the English Midlands could equally apply to AC Transit (see Chapter Four).

the way it does. And similarly, the idea of the right to the city offers a key language for understanding what transit means, in the broadest sense, for the public life of the city. Organized as a set of mini-case studies, each chapter offers its own evidence for why rights matter. I organize each chapter around a key tension, a key question, or a key paradox -- be it a tension between transit riders and transit operators or a tension between utopias of form and utopias of process. In the remainder of this conclusion I reengage some of these key tensions and key questions and explore what they mean for both advancing critical theory on the right to the city as well as what they mean for the practical and political tasks facing transit activists, transit planners and riders themselves -- all of whom are variably invested in securing a "better" transit system. Lastly, I will end by addressing the question of justice. There are often moments when rights collide and where one's right to the city comes up against another's. In these instances it is not enough to say that rights matter or to harp repeatedly on the importance of the idea of the right to the city. In these instances one also needs a theory of justice to parse which rights and whose rights matter most.

In Chapter One I start with two stories. In the first story I focus on a curious proposal that arose in Philadelphia in 2010 aimed at using the city's transit system to thwart a spate of violent teen flashmobs. In the second story, I highlight the immediate expansion of transit service in Los Angeles following the infamous Watts riots of 1965. As I suggest in the chapter, these cases present something of a paradox. While city officials in Philadelphia sought to respond to civil unrest by limiting the transit access of teens, in Watts the response was exactly the opposite -- city officials sought to expand transit in precisely those areas where the riots began. In the chapter, I use this paradox as a provocation. I argue that these seemingly contradictory cases raise important questions for transportation geography. These are questions about the role of

cities as sites of conflict, the nature of urban democracy, and the relationship between urban transit, public space and the citizenship rights of urban residents. Not only should transportation geography care about such questions, but the consequences of ignoring them are profound -- impoverishing our view of what transit actually means in cities. Over the course of the chapter, I further develop this argument by motioning toward the contemporary transportation justice movement in the East Bay and by referencing the memorable fights in the 1980s for wheelchair lifts on public buses. These accounts, along with the opening vignettes, all highlight the need for transportation geographers to engage with deeper questions around rights, urban space and democracy in cities.

In Chapter Two, I offer both a general history of urban transit policy in the US and a more specific postwar history of transit policy in the East Bay. I argue for understanding that history as the history of efforts to solve the “urban transportation problem.” At the federal level, I focus on the UMTA and its successors. At the local level, I look at the emergence of both AC Transit and BART. I also argue that much of what constitutes contemporary transit policy remains aimed at responding to the challenges of congestion and deficient transit that emerged following World War II. I end the chapter by highlighting what I see as the fundamental tension running through urban transit planning -- a tension between a utopianism of form and a utopianism of process. I borrow this distinction from David Harvey and argue that it allows us to explain why transit projects so often fail to live up to their billing. Harvey’s framework not only offers an important way to interpret the history of transit policy, but it also provides a humbling reminder to transit planners about the limits of their best “laid plans.” Harvey’s schema also raises an important question for advocates for the right to the city. To what degree, we might ask, does the tension

between a utopianism of form and a utopianism of process apply to the idea of the right to the city -- itself an admittedly utopian project.

In Chapter Three, I focus on three court cases: *Darensburg v. MTC*, *Bonanno v. CCCTA* and *Lopez v. SCRTD*. I also briefly examine a curious debate at AC Transit in 2010 over the definition of Title VI lines. In each of these cases I focus on how courts and judges delineate the legal duties of transit agencies and the legal rights of transit riders. I also show the ways in which these delineations have important ramifications for what transit looks like in cities -- from where AC Transit can locate bus stops, to which AC Transit lines enjoy protection under federal and state civil rights law. Drawing on these cases, I argue that transportation geographers ought to give greater attention to the courts and to issues of jurisprudence. Such legal matters are far too central to shaping transit's geography to be ignored. In addition to pushing work in transportation geography, I also spend some time in Chapter Three addressing the possibilities that the courts and the law might afford advocates of the right to the city. Drawing on the work of Blomely and Bakan, I point to the central importance of spatial representation in legal decision making. In many cases, courts and judges must not only weigh competing interpretations of fault, but they must also weigh competing representations of space itself. Drawing on the examples of *Darensburg v. MTC*, *Bonanno v. CCCTA* and *Lopez v. SCRTD*, I highlight the various representations of transit and urban space that are used to justify the various rulings in these cases. Many of these representations were clearly quite partial and incomplete -- the ruling against Sylvia Darensburg is a case in point. In this context, I argue that the power and promise of the idea of the right to the city, is in its ability to offers a representation of urban space that not only is more reflective of transit's role in the city but that also serves the interest

of justice. Engaging the courts, I note, will require that advocates of the right to the city not only to talk about rights but that they also talk about duties and remedies.

In Chapter Four I provide a history of the ATU 192. Over the course of the chapter I trace the history of the ATU Local 192 from its roots at the turn of the century to its last official strike in 1977. I give special attention to the transit strikes of 1919, 1953 and 1977. While acknowledging that tensions can arise between transit workers and those they carry, particularly during work stoppages and strikes, I ultimately argue for seeing the struggles of the ATU 192 as central to the struggle for the right to the city. I make this argument by looking at the history of the union itself. In particular, I focus on the union's central role in the Oakland General Strike of 1946 and the progressive political platform that emerged in the strike's wake. That progressive platform not only represented a high water mark of working class solidarity in the city, but it included a very specific set of demands, each of which capture the spirit of the right to the city to a tee. These demands included calls for improving public libraries and parks, to the repeal of anti-picketing and anti-handbilling laws. Apart from seeing the labor struggles of the ATU 192 as central to the right to the city, Chapter Four also suggests that the voices of transit workers themselves deserve a more prominent place in studies in transportation geography. Chapter Four, presents a number of areas for political intervention. The clearest is an invitation to develop stronger links between the labor movement and the movement for transportation justice.

Chapter Five takes up the question of transportation justice. In this chapter I trace the development of the East Bay's transportation justice movement as well as the wider national movement of which it is a part. While I look at a range of transportation justice organizations in the East Bay, I pay the closest attention to a now defunct organization called the Alliance for AC

Transit. As one of the earliest and most creative transportation justice organizations in the East Bay, I argue that its story is an important one and must not be forgotten. The central question I pose in the chapter is about how advocates of transportation justice understand and define justice itself. In the chapter, I suggest that in many ways the fight for transportation justice in the East Bay has been a classically liberal fight for social justice. Groups like Urban Habitat and Transform have directed much of their energy toward campaigns aimed at redistributing transit resources downward -- pulling money from projects benefiting the wealthy and directing that money to projects benefiting AC Transit's largely minority and poor riders. I end the chapter by suggesting that the fight for transportation justice has also been a more radical fight for the right to the city. In Chapter Five I redefine the right to the city as a fight against what I call the "idiocy of urban life." Chapter Five's discussion of justice and my argument about the idiocy of urban life offer an important addition to work on the right to the city. Apart from the theoretical contribution, Chapter Five is also rich with examples of strategies that may be applicable to transit activists in other places -- whether these strategies include adopting a Bus Riders Bill of Rights, or publishing a bus riding manual for the uninitiated.

Chapter Six begins with the story of Kristan Lawson's B-Line and the question of transit alternatives. I use Lawson's B-Line to introduce a long tradition of transit experimentation in the East Bay. From here, the chapter turns its attention to some of the more popular and exciting movements within transit planning. In particular, I focus on the national movements for Transit Oriented Development, Complete Streets and Bus Rapid Transit. In the chapter, I review both the goals of these initiatives and the ways that they have been implemented in the East Bay. While each takes a different tact, each has been aimed at reversing the trends around automobile ownership and congestion that emerged following World War II. Toward the end of the Chapter,

I focus on the specific challenges of implementing these initiatives in the East Bay. Some of these challenges stem from democratic opposition, as was the case in Berkeley. Other challenges stem from the physical limitations of the street itself, as is often the case in efforts to create Complete Streets. In some ways Chapter Six returns to themes explored in previous chapters, particularly around the utopianism of form and process. In other ways, Chapter Six does something altogether new, and that is that it hints at the contradictions inherent to the right to the city idea itself. Where projects like Bus Rapid Transit might substantially improve the lives of transit riders and allow them to assert a right to the city, these same projects can be rejected by communities fearful of top-down planning -- communities for whom the idea of the right to the city is an equally powerful rallying cry. While Chapter Six largely uses the B-Line story as a hook, in other ways, the B-Line functions as perhaps the Chapter's clearest practical suggestion. The idea of creating a fake transit system and publicizing it as if it were a real one had the effect of engaging communities in a deeper debate over the type transit system people wanted and even over the type of city they wanted.

Over six chapters, I make a compelling argument for incorporating rights into how we think about the geography of urban transportation. Struggles over rights, I argue, are central to explaining why AC Transit looks the way it does -- from where AC Transit places bus stops to the formation of the district itself. I also offer a compelling argument for acknowledging transit's role in securing a right to the city. For riders like Karen Smulevitz or members of the East Bay Center for the Blind, a right to the city is necessarily a right to transit. While each chapter makes a slightly different case for why rights matter, they all work together to foreground the importance of rights struggles in shaping transit's geography and the importance of transit in securing a right to the city. As I have noted above, the dissertation also highlights a number of

possible strategic engagements that speak to both issues of transportation justice and social justice more broadly. As I stated earlier these include the possibility of developing stronger links between labor unions and transit activists, they include building on the work of the Alliance for AC Transit and initiatives like a Bus Riders Bill of Right, and they include taking initiatives like Kristan Lawson's B-Line seriously. Lawson's B-Line, in particular, offers a quite compelling way to engage communities on the issues of transit alternatives.

Apart from these more practical engagements, perhaps the real strength of *Rights in Transit* is its theoretical contributions -- particularly its contribution to the right to the city idea. Across the dissertation I engage the right to the city literature through a number of questions and tensions. These are questions on utopianism (Chapter Two), the role of the courts (Chapter Three), the rights of labor (Chapter Four), the issue of justice (Chapter Five) and the reality of competing rights (Chapter Six). While work on the right to the city arguably offers a promising language through which to think about cities and the public life of cities, there are a range of areas where the right to the city literature is fatally ambiguous -- and each of these areas have been made apparent in the preceding chapters. How, one might ask, does the language of the right to the city translate in the courts? Must we also talk about our duty to the city? Where does the traditional labor movement fit within broader struggles for the right to the city? While I make the case in Chapter Four for seeing the struggle of transit workers as central to securing a right to the city, to what degree does that argument hold in the context of other labor struggles? Drawing on the work of David Harvey (2000), is the utopianism of the right to the city one of form, one of process, or something else altogether? In Chapter Six, I raise perhaps the most central question facing the right to the city and a question that seemingly looms over the entire dissertation, and that is how one deals with competing rights to the city. This last question is particularly

troubling because it suggests a lack of rigor in debates over the concept itself (Attoh 2011). How do we parse the rights claims of the transit dependent, from those of taxpayers, or from those of community groups who demand parking? When each of these groups can make a plausible claim to the right to the city, what do we do when these rights collide or conflict as they are wont to do?

Rights are important, but they are not enough. As is clear within and across the chapters, there are many instances where rights collide and where one's right to the city comes up against that of another. In these instances talking about rights in the abstract is of little help. In the face of competing rights to the city something else is needed. In such instances, one needs a robust theory of justice that allows one to distinguish which rights and whose rights take precedent. While I do not offer an explicit theory of justice in the dissertation, I do offer a fairly coherent reframing of the idea of the right to the city that may accomplish much the same thing. Implicit in the right to the city, I argue, is a theory about why cities matter and what a just city looks like. The right to the city, as I argue in Chapter Five, can be thought of as a right against what Marx and Engels should have called the idiocy of urban life. For Marx and Engels, the growth of cities not only reflected the growing power of industrial capital, but it reflected the possible emergence of new coalitions, new collectives and new class alliances. In contrast to the idiocy and isolation of rural life, cities promised the opposite. They promised new avenues for people to come together and collectively demand a right to better working conditions or perhaps a right to the means of production itself. To talk about the idiocy of *urban* life, then, is to talk about the various ways in which urban life has become just as isolating and politically moribund as the rural life of Marx and Engel's imagination. To discuss the idiocy of urban life is to highlight the range of urban policies, whether transit policies or otherwise, that function to make democratic

and class based coalitions impossible and that privilege the private and isolated citizen above the rest. In the context of *Rights in Transit*, the idea of idiocy allows us to return to some of the issues, questions and tension that we left unresolved. Drawing on Marx and Engel's notion of idiocy we can return to Chapter Two and note the idiocy of postwar transit planning and as well the idiocy that has plagued both various utopias of form and various utopias of process. The idea of idiocy, as Marx used it, means that we can return to Chapter Three and condemn the idiocy of the court in *Darensburg v. MTC*. Similarly idiotic, we might argue, were efforts in 2010 to pit transit riders against transit operators or to define "the public" in ways that excluded workers. The idea of idiocy allows us to return to Chapter Six and to Berkeley and to denounce the idiocy of pro-parking policies that privilege the private automobile over mass transit. While this constant reference to idiocy is not a theory of justice, per say, it is an idea that may represent the first steps toward the very real challenge of reconciling competing rights to the city.

Over six chapters, *Rights in Transit* seeks to reconceptualize the relationship between cities and transit. It approaches that task by both asserting the importance of rights and rights struggles in shaping the geography of transit and by asserting the importance of transit in securing a right to the city. Against the proclamations of the AC Transit board member I interviewed in November, 2010, rights are an invaluable if imperfect method for both thinking about why transit looks the way it does, and simultaneously for fighting for a better transit system. *Rights in Transit* offers a number of takeaways. Some of these are of a more practical sort, and may be of interest to transportation justice groups, labor organizations and community groups -- all of whom are engaged in fights for more just cities. At the theoretical level, *Rights in Transit* offers both a critique of the right to the city idea, and a fundamental reframing aimed at clarifying the concept in a useful way.

## Appendix A: Discussion of Methods

When I began my research in 2010, I began with two broad research questions:

1. How do the transit-dependent in the East Bay understand their rights as transit riders and citizens, and how do transformations in the design and planning of public transportation curtail or facilitate their ability to exercise their “right to the city”?
2. How do transit planners and policy makers in the East Bay understand the rights of the transit-dependent and how do the rights-claims and political mobilizations of the transit dependent shape the ways public transportation is designed, planned and funded?

As these questions suggest, I started my research interested in examining the relationship between transit policy and the the rights of the transit-dependent. I hoped that my research might not only shed light on the experience of transit dependency in the East Bay, but that it also might go some way in examining the relationship between transit and the public life of cities. Over the course of three months in the field, I employed a number of research methods. Between September and December 2010, I conducted 21 semi-structured interviews, one focus group and extensive archival research at the San Francisco State Labor Archives. While some of these methods were planned well in advance, others arose unexpectedly and in response to new developments in the field. Each of these methods presented its own advantages and its own challenges but nonetheless functioned to shape the structure and scope of the dissertation.

Throughout my research I relied heavily on semi-structured interviews. These interviews generally lasted 45 minutes and were based on a short list of open-ended questions. I initially focused on three types of informants. These were individuals involved in transit planning;

individuals involved in transit activism; and lastly individuals classified as transit-dependent. For individuals involved in transit planning, I drafted questions aimed at understanding how transit agencies like AC Transit approach issues of transit-dependency. I also inquired into the effects of new investments in Bus Rapid Transit and Transit Oriented Development. For transit activists, I drafted questions aimed at exploring the history of the East Bay's transportation justice movement. I also asked questions aimed at examining the link between transportation justice and other social justice movements. For the transit-dependent, I drafted questions largely aimed at understanding the everyday experience of using and relying on transit in the East Bay. While I posed different questions to each type of informant, I also made sure to end all interviews with the same question. What, I asked, does the idea of right to the city mean to you and what might it add to debates over transit? I did this on the suggestion of my advisor and with the hope of not only having my research question answered for me, but of developing some continuity between interviews.

In many ways, the semi-structured format of interviews served my research well. By using a short list of rather open-ended questions, I allowed informants the space and flexibility to wrestle with what were often quite broad and abstract questions -- questions that required informants to not only talk about their work and experience with issues of transit dependency, but to also address broader ideas about rights and the right to the city. In other instances, the semi-structured interview format was less helpful -- particularly with respect to engaging with the transit-dependent. I had originally intended to conduct one-on-one interviews with transit-dependent riders, but as the research progressed I became less and less excited about engaging riders in that way. This was partially a result of having failed to develop a more robust criterion for selecting transit riders to interview. Perhaps more decisively was my own discomfort in recruiting

individuals whose lives seemed precarious enough already and who I feared might find interviews about that precarity either uncomfortable or demeaning. In the same way that researchers studying poverty do not ask informants what it is like to be poor, I felt uncomfortable engaging with transit dependent riders in ways that I thought might seem debasing or disrespectful.

Given my research questions, it was still important for me to find a way to talk to the transit dependent. One of the ways I chose to get around my initial discomfort was by conducting a focus group. In November, I set-up a focus group with members of the East Bay Center for the Blind. During the focus group, I asked many of the questions that I had originally intended to ask transit dependent riders in one-on-one interviews. These were questions about the convenience of transit service and the everyday experience of using transit in the East Bay. The focus group format provided a forum that diffused some of my earlier fears. As opposed to focusing on an individual in isolation, the focus group format allowed transit dependent riders to see their own challenges as more universal and in ways that I thought were more empowering.

Given my original interests, the focus group was important in providing a first-hand account of transit dependency in the East Bay. By the time I conducted the focus group, however, a great deal had already changed. While I was still interested in issues of transit dependency, by mid-October, the issue had become less central. As early as my second week in the field, it became obvious to me that I was missing a much larger and more interesting story. That story was about rights more broadly. In the context of an ongoing labor dispute between AC Transit drivers and management, there was an important story about the rights of transit workers. In the context of California's budgetary woes, there was an important story about the lasting effects of Proposition 13. Similarly, in the context of service reductions at AC Transit, there was an equally important

story about the duties of transit agencies under Title VI of the 1964 Civil Rights Act. Only a month after starting my field work, I was asking a wholly new set of questions. Going beyond issues of transit-dependency these questions were focused on issues of labor strife, on the role of the courts, and the competing rights of taxpayers and property owners. With these new questions came new methods. It was at this time that I began frequenting the San Francisco State Labor Archives to look at their special collection on the Amalgamated Transit Union Local 192. As I became more interested in making sense of the ongoing labor dispute, and as I began interviewing transit workers themselves, the ATU 192 collection provided an invaluable resource.

By the time I had finished my fieldwork in December of 2010, my original questions had changed markedly. Not only that, but I had interviewed a far wider range of people than I had originally intended. Apart from transit planners, transit riders and transit activists I had interviewed transit workers like Anthony Rodgers, lawyers like Richard Marcantonio, and non-fiction writers like Kristan Lawson. When I returned from the field I faced a data set that was both diverse and wide ranging. I had materials on the ATU 192 strikes of 1953 and 1977. I had legal documents and court materials pertaining to *Darensburg v. MTC*. I had a collection of old newsletters from a defunct organization called the Alliance for AC Transit. I even had a map of a fictitious transit system called the B-Line. The early process of data analysis largely involved sorting through this morass of data and identifying what seemed like natural breaks. This meant grouping material on transit workers together, separating out material on court cases, and marking out the material from the Alliance for AC Transit. During this process, one fact became increasingly clear -- I had unwittingly performed what amounted to a case study of transit in the East Bay. While I had not set out to conduct a case study, my data suggested otherwise.

Case study research, as with all methods, has both its proponents and its detractors. For critics, case studies are often identified with “loosely framed, nongeneralizable theories, biased case selection, informal and undisciplined research design, weak empirical leverage, subjective conclusions, non replicability and causal determinism.”(Gerring 2006, 6) For proponents, of course, case studies are invaluable for providing the most holistic account of a given phenomenon (Yin 2003, 2).

In the context of my research project, the case study method had a number of benefits. Apart from the post-hoc need to make sense of a wide-ranging dataset, the more substantive reason for using the case study approach was that it spoke most convincingly to my research objective. I began my research interested in contributing to literature on the right to the city. While a great deal of literature had defined the right to the city as a right to public space, one of the aims of my research was to suggest that, for many people in the city, the right to the city also necessitated a right to transit. What good was public space, I asked, if one couldn't get there? As John Gerring suggests in his 2006 work on qualitative methods, the comparative advantage of case study research is in its capacity at “paradigm-generating.” Case studies, he notes, are useful for generating new hypotheses and, more than any other method, are often a “boon to new conceptualizations” (Gerring 2006, 40). From the very beginning my research's aim was exactly this -- to reconceptualize the relationship between transit and cities and to do so by inserting the importance of rights. The use of a case study not only made exploring this relationship easy, but it allowed me to approach that relationship from a wide range of perspectives -- be it from the perspective of labor, the courts or transit activists.

Of course there are numerous critiques of case study research. The most common criticism of case study research is that it is both impossible to replicate and that it is difficult to generalize a

broader truth from only a few cases. Whilst I will grant the difficulty of replicating my research, I reject the assertion regarding generalizability. My focus is on the East Bay, but I engage debates around transit policy and around social movements that appear across the US. My observations about the legal geography of transit in the East Bay, the struggles of the ATU 192 or the history of the region's transportation justice movements, all speak to tensions and questions that extend beyond the immediate locale. My arguments about rights and the right to the city speak directly to national movement and set of ideas based around fights for public space and against gentrification. To the degree that transit planners in other cities must deal with Title VI regulations that have spatial consequences, or to the degree that in other cities disputes erupt over parking and traffic lanes, suggest that, while my focus is the East Bay, my arguments and the data backing them up all speak to pertinent, widespread issues of transit in relation to rights, justice and the idiocy of urban life.

## **Appendix B: List of Interviews**

Mohasen, Interview. October 4, 2010.

Steve Geller. Interview. October 5, 2010

Fran Hastlestiener. Interview. October 10, 2010.

Joyce Roy. Interview. October 11, 2010

Steven Gerstle. Interview. October 13 2010.

Senior Planner at AC Transit. Interview. October 13, 2010.

Lindsay Imai. Interview. October 19 2010.

Matt Williams. Interview. October 19, 2010

Eileen Ng. Interview. October 20, 2010

Douglas Biggs, Interview. October 22, 2010

Richard Marcatonio. Interview. November 2, 2010.

East Bay Center for the Blind. Focus Group. November 9, 2010.

Chris Mullen. Interview. November 10, 2010

AC Transit board member. Interview. November 12, 2010.

Organizer for Genesis. Interview. November 12, 2010.

Sharon Frede. Interview. November 3, 2010.

Anthony Rodgers. Interview. November 19, 2010

Joel Ramos. Interview. November 23, 2010.

John Katz. Interview. November 29. 2010.

David Lyons. Interview. December 1, 2010.

Kristan Lawson. Interview. December 7, 2010.

Claudia Hudson. Interview. December 8, 2010

## Appendix C: AC Transit Performance Data

### 1. Platform Hours 1987-2010

Total Platform Hours Historical Trend

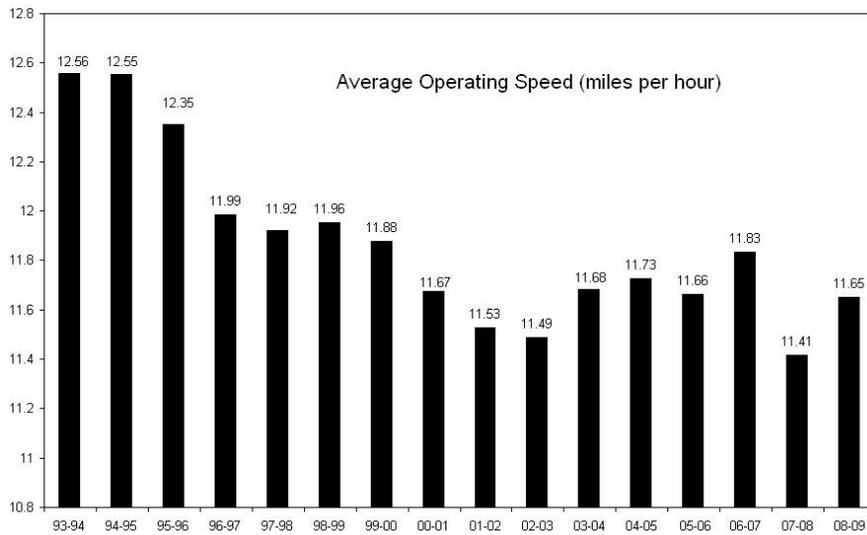


### 2. Fare Box Recovery Ratio for AC Transit 1964-2009

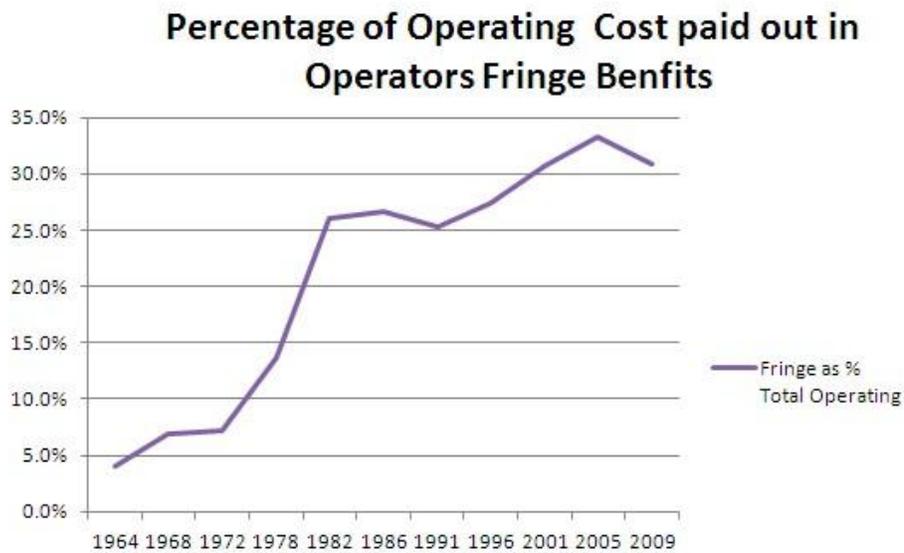
% of Operating Costs Covered by Fares



### 3. Average Speeds for AC Transit Vehicles 1993- 2009

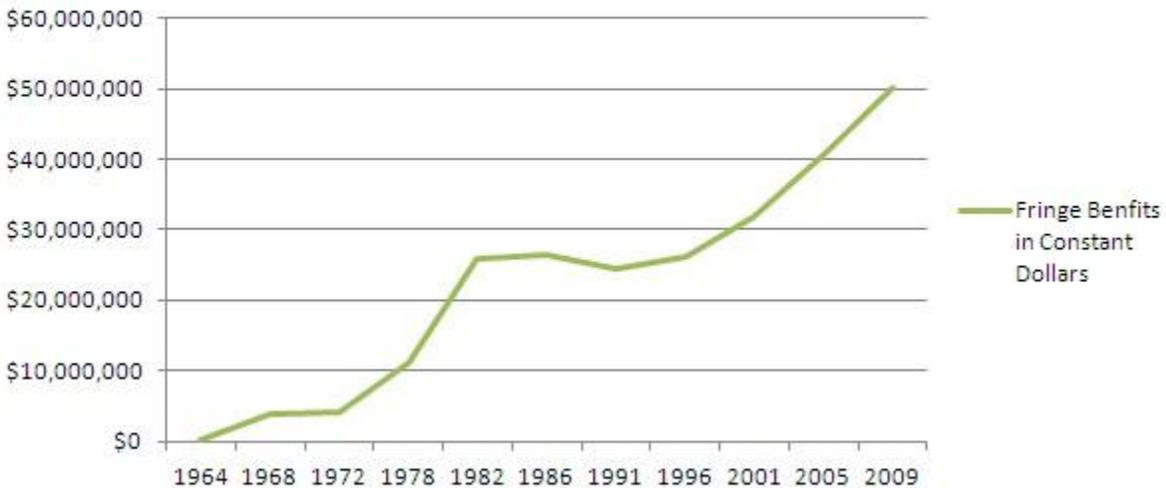


### 4. (Fringe Benefits/ Total Operating Costs)\*100 1964- 2009



## 5. Fringe Benefits in Constant Dollars

**Fring Benefits Paid out to AC Transit Operators in Constant Dollars (CPI San Francisco-Oakland 1982)**



1. Data Published in GM Memo 09-217j September 22, 2010. Retrieval at: [http://www.actransit.org/wp-content/uploads/board\\_memos/98ef72.pdf](http://www.actransit.org/wp-content/uploads/board_memos/98ef72.pdf)
2. Data available at the National Transit Database
3. Data Published in 2010 Short Range Transportation Plan 2010. Retrieval at: <http://www.actransit.org/wp-content/uploads/MiniSRTPforMTC10inoldexclfinal1.htm>
4. Data available at the National Transit Database
5. Data available at the National Transit Database

## Appendix D: The B-Line Pamphlet

<p><b>Who will benefit from the B-Line?</b></p> <p>EVERYBODY!</p> <ul style="list-style-type: none"> <li>• Existing bus riders will get vastly improved service, with buses going exactly where we want them to go, more frequently and less expensively than with AC Transit.</li> <li>• Any Berkeley residents who currently use cars for commuting, shopping, etc., and who would <i>like</i> to use public transit instead of driving, but can't make the switch because the current AC Transit service is unreliable and insufficient.</li> <li>• Berkeley business owners, who will benefit from more locals and out-of-towners arriving in the city's various shopping districts without having to hassle with parking.</li> <li>• Tourists, especially those arriving by BART, who will finally have a way to reach various attractions and shopping areas easily and quickly.</li> <li>• U.C. Berkeley students, who will be able to get to campus more conveniently from housing in other parts of town.</li> <li>• Disabled, senior, youth and disadvantaged residents, and anyone who doesn't drive a car.</li> <li>• The city as a whole, because a new transit system will improve our reputation as a center for green innovation.</li> <li>• THE EARTH, which will thank us for decreasing air pollution and oil usage.</li> </ul> <p><a href="http://berkeleytransit.wordpress.com/">http://berkeleytransit.wordpress.com/</a></p>	 <p>Why doesn't the greenest city in America have its own eco-friendly transit system?</p> <p>The B-Line is a dream come true for Berkeley residents: our very own municipal buses!</p> <p>The time has come for us, the residents of Berkeley, to set up our own transit system — a modest fleet of electric (or other green-friendly) small buses or trolleys running throughout the city on a network of routes designed with riders' needs in mind.</p> <p>The B-Line does not exist yet — but with your help and enthusiasm, it will.</p> <p><b>Proposed routes</b></p> <p>The routes shown on this B-Line map are not set in stone: They are simply a first draft, seven possible proposed routes customized to the needs of Berkeley residents. Have ideas for better routes? We'd love to hear them!</p> <p><b>How can I help?</b></p> <p>Visit <a href="http://berkeleytransit.wordpress.com">http://berkeleytransit.wordpress.com</a> or email <a href="mailto:berkeleytransit@gmail.com">berkeleytransit@gmail.com</a> to get started, and for all sorts of resources to help you transform this proposal into reality — and to transform Berkeley into the public transit paradise it deserves to be.</p> <p><a href="http://berkeleytransit.wordpress.com/">http://berkeleytransit.wordpress.com/</a></p>	 <p><b>Berkeley's Municipal Transit System</b></p> <div style="border: 1px solid black; padding: 10px; text-align: center;"> <p><b>Proposed Route Map</b></p> <p><i>October 25, 2010</i></p> </div> <p><a href="http://berkeleytransit.wordpress.com/">http://berkeleytransit.wordpress.com/</a></p>
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## **Laws and Statutes**

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### Education

- 2013 Ph.D. Geography Syracuse University. Syracuse, NY.  
Dissertation: *Rights in Transit: Public Transportation and the Right to the City in Oakland, California.*
- 2008 M.A. Geography, Syracuse University. Syracuse, NY.  
Thesis: *Get on the Bus: Public Transportation and Neoliberalism in Syracuse NY*
- 2006 B.A. Geography and Spanish (minor), Macalester College. Saint Paul, MN.

### Publications

#### *Peer -Reviewed Articles*

- Staeheli, L; Attoh, K and Mitchell, D. (2013) Contested Engagement: Youth and the Politics of Citizenship. *Space and Polity*. 77(1) 88-105.
- Attoh, K. (2012) The Transportation Disadvantaged and The Right to the City in Syracuse, New York. *The Geographical Bulletin*. 53(1) 1-20
- Attoh, K. (2011) What *kind* of right is the right to the city? *Progress in Human Geography*. 35(5) 669-686
- Attoh, K. et al. (2011) The Bus Hub: Poem and Song. *Acme Journal: An International Journal for Critical Geographies*. 10(2) 280-285

#### *Book Reviews*

- Attoh, K. (2012) Book review: Banished: The New Social Control in Urban America, by Katherine Beckett and Steven Herbert. *Urban Studies* 49(16) 3701-3703
- Attoh, K. (2008) Book review: Contesting Neoliberalism: Urban frontiers edited by Helga Leitner, Jamie Peck and Eric Sheppard. *Antipode* 40(2) 336-338

#### *Book Chapters*

Mitchell, D; Attoh, K. and Staeheli, L. (Forthcoming May 2013) “Policing Centered Community Cohesion in Two British Cities” in Randy Lippert and Kevin Walby (eds). *Policing Cities: Urban Securitization and Regulation in a 21<sup>st</sup> century world*. New York: Routledge.

### **Academic and Teaching Appointments**

Summer 2009-2012	Research Assistant for Dr. Don Mitchell and Dr. Lynn Staeheli: NSF Grant Democracy and Public Life in the United States and United Kingdom.
Spring 2009	Teaching Assistant for Dr. Jamie Winders: Geography 171: Human Geography.
Fall 2008	Teaching Assistant for Dr. Tod Rutherford: Geography 171: Human Geography.
Spring 2008	Teaching Assistant for Dr. Jennifer Hyndman: Geography 273: Global Political Economy.
Fall 2007	Teaching Assistant for Dr. Don Mitchell: Geography 272: World Cultures.

### **Academic Presentations**

2013	“Accessibility on what terms? Transportation Justice and other struggles against the idiocy of urban life. Invited Talk, Workshop: Accessibility as a condition to spatial justice in urban context. Montreal CA. May
2013	“Scattershot: Parsing ‘Data’ in Research in Cultural Geography. Association of American Geographers, Los Angeles CA, March.
2013	“Rights in Transit: The Struggle for ‘Transportation Justice’ in California’s East Bay” Invited Talk, Department of Philosophy/ Urban Studies Program. Vassar College. Poughkeepsie N.Y. February
2012	“Rights in Transit: The Struggle for ‘Transportation Justice’ in California’s East Bay” Invited Colloquium Talk, Department of Geography, Maxwell School of Citizenship and Public Affairs, Syracuse University. Syracuse N.Y. November.

- 2012 “Transportation Justice and Competing Rights to the City” Paper Presentation: 19<sup>th</sup> Annual Conference on Critical Geography, UNC Chapel Hill, November.
- 2012 “Please stand behind the yellow line when the bus is in motion” A Tale of Two Unions. Paper Presentation, Association of American Geographers, NYC, February. *Session Organizer*
- 2010 “What kind of right is the right to the city?” Paper Presentation, Association of American Geographers, Washington D.C., April.
- 2010 “Shazam: Popular Geographies in Practice.” Discussion Panel, Washington D.C., April
- 2010 “Specters of Liberty: The Great Central Depot in the Open City.” Discussion Panel, Syracuse, N.Y. May
- 2009 “A Ride to the City.” First Annual Human Geography Journal Student Paper Forum. Paper Presentation, Manchester, UK, August.
- 2009 “A Ride to the City.” Paper Presentation. Mellon Mays Graduate Initiative, Oberlin OH, June.
- 2009 “Rides for Work and a ‘Right to the City.’” Paper Presentation. Association of American Geographers. Las Vegas, NV. April.
- 2008 “Public Transportation and Neoliberalism in Syracuse N.Y.” Guest Lecture. Geography 372: Political Geography. Spring.
- 2008 “People of Color and the Academy. The challenges and issues that graduate students of color face in Geography.” Discussion Panel, Association of American Geographers, Boston MA, March.
- 2008 “Bus routes, Bus stations and the Bus itself: Neoliberalism and the Spaces of Public Transportation in Syracuse, NY” Paper Presentation, Association of American Geographers, Boston MA, March.

## **Awards**

- 2012-2013 Syracuse University Fellowship
- 2011 Mellon Mays Travel and Research Grant
- 2009 Roscoe Martin Travel Grant

2009	Mellon Mays Graduate Enhancement Grant
2008	Graduate School Summer Research Fellowship
2006-2007	Syracuse University Fellowship
Fall 2005	Macalester Poetry Slam: First prize
Fall 2004	Macalester Poetry Slam: First Prize
2004- 2005	Mellon Mays Undergraduate Fellow

## **Service**

### *Departmental Service*

2008	Graduate representative to faculty search committee: reviewed files of applicants to assistant professor position in political ecology in Syracuse's Department of Geography.
2007	Graduate representative to the steering committee for the Syracuse Community Geographer. The Syracuse Community Geographers is apposition based at Syracuse University aimed at providing geographic resources and skills to organization and non-profits in and around the city of Syracuse.

### *Service to Discipline*

Manuscripts reviewed: Urban Geography (n=1), Social and Cultural Geography (n=2), Environment and Planning A (n=1)

## **Professional Development**

2012	Mellon Mays Dissertation Development Seminar. Chicago Illinois. March.
2006-2008	Syracuse Future Professoriate Program.

## **Languages and Skills**

Spanish (reading: fluent ; speaking: advanced) ArcGIS, HTML w/CSS