

WELCOME ABOARD? HOW THE DISABLED MUST COMPETE WITH BIKE RIDERS ON THE SPRINTER

SUMMARY

Since its inauguration in March of 2008, thousands of North County residents have happily boarded the Sprinter, the light-rail system serving points from Escondido to Oceanside operated by the North County Transit District (NCTD). The 22-mile long system serves Oceanside, Vista, San Marcos, and Escondido, with stops at 15 stations along the Highway 78 corridor. Some individuals with disabilities have learned to avoid taking the Sprinter because of a consistent conflict with riders who bring aboard bicycles and must share the small, multi-purpose space set aside for both.

Investigating a citizen complaint, the 2016/2017 San Diego County Grand Jury (Grand Jury) found the Sprinter accommodations for individuals with disabilities meet the bare minimum for access under federal and state statutes. As a consequence, wheelchair-bound riders are often required to fend for themselves in the competition for space on Sprinter trains.

The Grand Jury recommends NCTD consider reallocating a separate space on the train cars for bicycles by removing some seating, improving signage and its surveillance camera system on trains, and adding additional code enforcement staff and redefining their duties.

INTRODUCTION

Daily ridership figures for the Sprinter have steadily declined in recent years to about 7,500 last year.¹ That's down from 8,000 in 2008 and 7,800 in 2012. As a result of conversations with disabled riders, the Grand Jury believes some of the decline can be attributed to the lack of attention to the problems faced by individuals with disabilities and wheelchair-bound riders. During inspection trips on the Sprinter, teams of Grand Jurors noted frequent conflicts between individuals with disabilities and those who brought bicycles aboard. Those with bicycles stowed them in the multi-purpose area because there is no clearly defined area for them elsewhere. Bicycles often took over the majority of the space intended to serve the needs of the disabled, wheelchair-bound riders and others.

¹ <http://www.gonctd.com/wp-content/uploads/2017/01/FY-2017-Proposed-Amended-Operating-Budget.pdf>
(accessed March 27, 2017)

PROCEDURE

The Grand Jury conducted numerous interviews of NCTD officials and staff as well as personnel from the district's operation and maintenance contractor, reviewed relevant pages on the NCTD website and studied how other transit systems operate. Teams of Grand Jurors observed the situations during inspection trips on the Sprinter and while visiting its platforms. Video and photographs were taken during those trips for documentation.



Photo 1 - Sprinter Train

The Grand Jury also visited with NCTD employees and security personnel, and individuals with disabilities who are regular Sprinter riders, and researched relevant laws, ordinances and policies. Grand Jurors also researched Federal Transit Administration (FTA) regulations and applicable provisions of the Americans with Disabilities Act (ADA).

DISCUSSION

The Grand Jury's investigation focused on three main areas:

- How riders with bicycles frequently fill up the small, multi-purpose space intended to be shared with individuals with disabilities.
- Sprinter rail car design issues affecting access for individuals with disabilities.

- Why NCTD is unable to identify the problems caused by the space sharing or do anything about them.

Many Sprinter riders are students who commute to and from the colleges, universities, and other schools located along its route. NCTD statistics show an increasing number of students who ride the Sprinter also ride their bicycles to get to and from the train stations. They are mostly evident during the morning and afternoon rush hour periods.

The Grand Jury found parked bicycles frequently took up the bulk of the space in the small multi-purpose area.



Photo 2 - Bicycles on Sprinter



Photo 3 - Bicycles on Sprinter

On more than one occasion, Grand Jurors saw wheelchair-bound riders blocking aisles, entryways, and exits as a result of bicycle congestion. On the NCTD website, a list of “Rules of Riding”² mentions bikes are allowed “in specific areas,” but the Grand Jury was unable to find anywhere on the website or on the trains where those “specific areas” were delineated.

Unlike the NCTD-operated Coaster and other commuter rail systems, the Sprinter does not operate with conductors on its trains, only operators who drive the trains. Code enforcement officers occasionally board the trains to check for fare compliance. During Grand Jury inspection trips however, code enforcement officers were rarely observed. When one was seen, the officer only appeared to be checking that passengers had passes or tickets but did not appear to check the validity of the passes or tickets. Grand Jurors observed a code enforcement officer ignoring two safety hazards — an obviously wet floor and a wheelchair rider blocking an exit — while intent only on asking passengers for their tickets. (See photos 4 and 5)

² <http://www.gonctd.com/rules-of-riding/> (accessed 03/08/2017)



Photo 4 - Wet Floor on Sprinter Train



Photo 5 – Wheelchair Blocks Exit

Each Sprinter train is equipped with onboard surveillance cameras (see photo 6) that record video but are not capable of being monitored in real time. The recorded video is normally kept for only two weeks before it is recorded over and NCTD does not routinely scan any of it for issues or problems.



Photo 6 - Surveillance Cameras on Sprinter Train

Only when a serious incident occurs does anyone retrieve and view the video and, if necessary, save it for later. The Grand Jury believes NCTD should assign someone on a regular basis to review the video and prepare regular reports that will help administrators identify problems and address them.

The train cars used on the Sprinter are manufactured by a German firm, Siemens, and while used throughout Europe, are not used anywhere else in the United States. NCTD normally runs two-car trains and doubles them to four cars during peak periods.



Photo 7 - 2-car Train

(NCTD Photos)



Photo 8 - 4-car Train

The Sprinter trains are operated and maintained by an independent contractor. The design of the Sprinter train cars allows for level boarding but includes raised seating areas that require some riders to go up steps to the main general seating areas. The car's design also features what is called a "multi-purpose" area on the lower entry level that takes up about half the car's floor space and contains folding seats and fixtures for stowing bicycles, baby strollers, or wheelchairs, while the other half of the car's floor space contains normal seating. The Grand Jury believes NCTD should consider redesigning the floor space by removing some of the normal seats on the lower level of the car and using the space for bicycle stowage. The removal would free up the remainder as a separate area **only** for individuals with disabilities and those using wheelchairs, thereby eliminating conflicts between bicycle riders and individuals with disabilities. While doing so would reduce the number of seats for able-bodied riders, NCTD can mitigate the loss by running double-length train sets as a standard procedure.

NCTD acknowledges the design of the car's shared space, its multi-purpose area, is no longer adequate to handle the increasing number of riders who bring their bicycles aboard. The Grand Jury was told suggestions to add bike racks were rejected because they ran afoul of ADA space requirements.

The ADA sets forth specific requirements for transit systems, including NCTD.

Section 37.79 of the act³ requires system operators to "ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs."

Grand Jurors noted trains were sometimes not "readily accessible" to wheelchairs because of a lack of space due to the number of bicycles. NCTD, however, claims it seldom receives complaints about access problems.

Another section of the act establishes requirements for signs in each rail car that identify priority seats and ask other passengers to make these seats available to those who need them.

³ http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=d315855e2f2c9f940970f4c191349c12&rgn=div5&view=text&node=49:1.0.1.1.27&idno=49#se49.1.37_179 (accessed March 21, 2017)

Section 38.55(a)⁴ “Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.”

Grand Jurors noted a few priority seating signs were present on the Sprinter trains but were small and inconspicuous. (See photo 9)



Photo 9 - Priority Seating Sign

The signs mention the Code of Federal Regulations (CFR) section that contains the following sub-section:

Section 37.167 (j)(3)⁵ “The entity [*NCTD in this instance*] is not required to enforce the request that other passengers move from priority seating area or wheelchair securement locations.”

⁴ http://www.ecfr.gov/cgi-bin/text-idx?SID=ca7026a2210e7f957ee55360187fb206&mc=true&node=se49.1.38_155&rgn=div8 (accessed March 27, 2017)

⁵ http://www.ecfr.gov/cgi-bin/text-idx?SID=bc3d34eb6ec8782df3613877a01cdeb3&mc=true&node=se49.1.37_1167&rgn=div8 (accessed March 21, 2017)

Another section specifies that rail cars must have sufficient interior clearances to permit at least two wheelchairs or mobility aids to reach clear space areas, each of which must measure at least “48 inches by 30 inches.”

Section 38.57(b)⁶ “Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.”

The regulations do not specify the location of the clear space areas; these areas may coincide with places where other passengers stand.

It was clear during the Grand Jury inspection trips that no one appears to be responsible for noting a conflict between riders if one arises, much less do anything about it. The train operator is busy elsewhere and is not responsible for mediating disputes. There is no conductor, and code enforcement officers are only randomly onboard. Even when they do show up on the train, they are clearly intent on only checking tickets. NCTD confirms no one in NCTD management views the video recorded by the train cameras to identify and address problems unless a serious incident occurs.

NCTD says a lack of funding has thwarted plans to replace all of the Siemens rail cars, estimated to cost about \$60 million. Hopes remain, however, that a new Administration in Washington may yet provide the necessary federal funding. Legislation recently introduced in the California Assembly also holds the promise of increased funding options. Until then, the Grand Jury believes NCTD should consider creating separate spaces for bicycles and wheelchairs, running more double-length trains more often, making more frequent onboard inspections by code enforcement officers and requiring them to do much more than simply checking for fare evaders. The Grand Jury also believes NCTD should install more and larger priority seating signs. Additional signs should also be posted notifying individuals with disabilities and others of an NCTD hotline number to call and an email address to use to report space and other conflicts.

The Grand Jury believes NCTD should learn from other rail transit operators on posting signs and rules such as the following:

Maryland Transit:⁷ “Place the bicycle in the area reserved for seniors and individuals with disabilities. Be prepared to move the bicycle to make way for

⁶ http://www.ecfr.gov/cgi-bin/text-idx?SID=bc3d34eb6ec8782df3613877a01cdcb3&mc=true&node=sp49.1.38.c&rgn=div6#se49.1.38_157 (accessed March 21, 2017)

⁷ <https://mta.maryland.gov/bike> (accessed March 21, 2017)

seniors and individuals with disabilities who have priority over bicycles. Hold onto the bicycle and keep it out of the way of other passengers.”

Sacramento Regional Transit:⁸ “RT allows four bikes per car, two in the front and two in the back, on multi-car trains. However, in the first car no bikes are permitted at the front of the car, which is reserved for individuals with disabilities.”

FACTS AND FINDINGS

Fact: Sprinter train cars contain a multi-purpose area that is intended to be shared by individuals with disabilities and those using wheelchairs and other mobility devices, as well as riders with bicycles, baby strollers, or other large carryon items.

Fact: The multi-purpose area is often crowded with bicycles.

Fact: When bicycles take up a large part of the multi-purpose area, people in wheelchairs sometimes block the aisles and exits.

Finding 01: The current shared-space design is inadequate to serve both bicycles and wheelchairs, which in turn gives rise to the creation of unsafe conditions.

Fact: There are no conductors on Sprinter trains.

Fact: There is no capability for security personnel or dispatchers to monitor onboard surveillance cameras in real time.

Fact: Code enforcement officers spend little time aboard Sprinter trains doing anything more than checking fare compliance.

Fact: Priority seating signs are small and inconspicuous.

Fact: Federal regulations do not require NCTD to enforce priority seating.

Finding 02: Persons with disabilities and those in wheelchairs are left to fend for themselves in any conflict over space.

RECOMMENDATIONS

The 2016/2017 San Diego County Grand Jury recommends the North County Transit District Board of Directors:

17-31: Consider overhauling all Sprinter train cars to remove some of the normal seats that occupy the space adjacent to the current “multi-

⁸ <https://www.sacrt.com/documents/brochures/Bike&Ride.pdf> (accessed March 21, 2017)

purpose area” and creating a separate bicycle stowage area in all Sprinter vehicles. The intent of this railcar redesign would be to provide a seamless separation with bicycles on one side and those with wheelchairs, disabilities, and seniors on the other.

- 17-32: Consider adding, enlarging, and rewriting signs dealing with priority seating for persons with disabilities and for the area to be assigned to riders with bicycles.**
- 17-33: Consider assigning additional duties to code enforcement officers and increasing the number of onboard patrols to assure rider safety.**
- 17-34: Consider upgrading the Sprinter surveillance camera system to facilitate live monitoring of onboard cameras by security and dispatch personnel.**

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
North County Transit Board of Directors	17-31 through 17-34	8/22/17