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August 24, 2017

Honorable Jeffrey B. Barton  
Presiding Judge of the Superior Court  
Main Courthouse  
THIRD FLOOR, Department P  
220 West Broadway  
San Diego, CA 92101

Re: Response to the San Diego County Grand Jury Report: "Welcome Aboard? How The Disabled Must Compete With Bike Riders On The SPRINTER"

Dear Judge Barton:

The North County Transit District (NCTD) provides this letter in response to the San Diego County Grand Jury Report: "Welcome Aboard? How The Disabled Must Compete With Bike Riders On The SPRINTER" (Report)". NCTD appreciates the opportunity to review and respond to the Report and for the valuable feedback provided as a result of the investigation conducted by the Grand Jury.

NCTD launched the SPRINTER hybrid train in 2008. As part of this new service implementation and as a condition of funding from the Federal Transit Administration, NCTD was required to develop and operate the SPRINTER in compliance with federal requirements including the Americans with Disabilities Act of 1990 (ADA). As a result, the SPRINTER platforms, trains (including designation of spaces for disabled persons), and access facilities were designed and constructed to support independent boarding by customers using wheelchairs.

In the nine (9) years since the SPRINTER'S first trip, NCTD has continued to make accessibility for all passengers a top priority. NCTD continuously monitors Rider Reports from passengers to determine how service can be improved. Within the last fiscal year, NCTD received a total of seven Rider Reports alleging accessibility issues related to those raised in the Report.

Upon review of the Report, NCTD determined that the findings and recommendations outlined in the Grand Jury report are based on a small sample size of observations with no supporting documentation; without a full understanding of the regulatory requirements that NCTD is required to meet; and without a full understanding of the limitations and impacts of potential modifications to the SPRINTER vehicle. It is NCTD's position that making significant modifications to the SPRINTER require robust and quantifiable data before advancing changes that may create unintended impacts.

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With that said, NCTD is focused on continuous improvement. As the Grand Jury is aware NCTD has taken steps to improve passenger experiences on the SPRINTER with the inclusion of Train Conductors onboard all SPRINTER trains that will perform a number of safety, security, and operational duties to include management and reporting of customer events. NCTD, via the Train Conductors, will be able to manage episodic issues and determine if additional actions are required to support management of interactions between customers who use wheelchairs and customers who use bicycles. NCTD believes this action addresses the concerns raised in the Report. Additionally, in accordance with California Penal Code § 933(c), NCTD presents the following responses to each of the specific findings and recommendations outlined in the May 25, 2017 Report:

**RESPONSE TO FINDINGS:**

**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.

**Response:** NCTD disagrees in part with the Grand Jury's finding. The Grand Jury stated as a fact to support this finding that: "[t]he multi-purpose area is often crowded with bicycles." NCTD believes that the Grand Jury lacked quantifiable data to support this finding. Over the course of the last fiscal year, NCTD has received a total of seven customer complaints related to concerns about alleged unsafe interactions or issues between bicycles and wheelchairs. NCTD believes that the small number of complaints indicates that this is not a pervasive problem and is likely episodic and tied primarily to special events and heavy passenger loads when operating one versus two coupled SPRINTER trains.

NCTD will take steps to ensure SPRINTER Train Conductors focus more on the shared-space area during trips to ensure unsafe conditions do not arise.

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

**Response:** NCTD disagrees with the Grand Jury's finding. It is NCTD's position that SPRINTER train passengers, specifically those in wheelchairs, have resources available to them if a conflict were to arise over space. One resource included Code Enforcement Officers that, during the period of the Grand Jury investigation, would ride the SPRINTER train to not only check fares, but also to assist passengers with their customer service needs.

Another resource are the call buttons at each end of the train that passengers can use to call the Operator if they need assistance. Once pressed, the button will ring into the train cab and the Operator will be able to communicate with the passenger. If the Operator is unable to resolve the passenger's issue, the Operator is able to contact dispatch and request assistance as necessary.



The Report asserted several items purporting to support the findings such as: "[t]here are no conductors on SPRINTER Trains"; "Code enforcement officers spend little time aboard SPRINTER trains doing anything more than checking fare compliance"; and "Federal regulations do not require NCTD to enforce priority seating." The Report is correct that conductors were not present on the SPRINTER at the time of the investigation. As previously stated, NCTD has contracted with its rail operations contractor, Bombardier Transportation (Holdings) USA, Inc. (Bombardier) to employ Train Conductors for SPRINTER beginning in Fall 2017 (see Recommendation 17-33 response for more information). The Report is also correct in that Code Enforcement Officers were tasked with checking fares; however Code Enforcement Officers were also tasked with enforcing NCTD's Code of Regulations as outlined in NCTD's Ordinance No. 3.<sup>1</sup> These actions go beyond what Federal Regulations require.

The Grand Jury also stated: "[t]here is no capability for security personnel or dispatchers to monitor onboard surveillance cameras in real time." This fact is correct. Currently NCTD does not have real time monitoring capabilities on the SPRINTER (see Recommendation 17-34 response for more information). However, Operators, Code Enforcement Officers, and in the near future SPRINTER Train Conductors, have the ability to communicate with dispatch via radio and request assistance. These individuals act as the eyes and ears for the District until real time monitoring is acquired.

The Grand Jury concluded that: "[p]riority seating signs are small and inconspicuous." As illustrated in the Report, "Photo 9 - Priority Seating Sign", signs have been placed over and on the bottom of the fold up seats in the shared-space area. The signs are ADA compliant and properly inform passengers of priority seating (see Recommendation 17-32 response for more information).

#### **RESPONSE TO RECOMMENDATIONS:**

**Recommendation 17-31:** Consider overhauling all SPRINTER train cars to remove some of the normal seats that occupy the space adjacent to the current "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.

**Response:** NCTD will not be implementing this recommendation because it is not reasonable or feasible. As previously stated, NCTD believes that the Grand Jury's analysis is insufficient to support immediate actions to make significant modifications to SPRINTER equipment. However, it is important to note that NCTD has evaluated modifications to the SPRINTER; specifically, in 2016, with respect to installing fixed bike racks and relocating seats within the SPRINTER trains. A review of the structural schematics was completed by NCTD contractors and staff to determine placement options. It was determined that the SPRINTER train configuration could not be altered. Specifically the review concluded the length of the common bicycle (16"-22") frame extended into the aisle which posed a safety hazard. In addition, adding fixed racks reduced the amount of space for bicycles from the current configuration. Finally, a

<sup>1</sup> NCTD Ordinance 3 was last updated in June 2017. The prior version of the Ordinance (adopted December 17, 2009, and revised through July 21, 2016), in effect at the time of the Grand Jury investigation, would be the relevant version for review in relation to the Report.



modification of the train configuration for this purpose above various propulsion components would be cost prohibitive. Because of these factors, it has been determined that it would be unreasonable or infeasible for NCTD to implement Recommendation 17-31. However NCTD and Bombardier staff are now more aware of potential passenger issues presented in the shared-space area and will be more proactive in assisting passengers to avoid conflicts during trips. For these reasons, NCTD will not be implementing Recommendation 17-31.

**Recommendation 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.

**Response:** NCTD will not be implementing this recommendation because it is not warranted. Upon receiving the Report, NCTD evaluated the current signage on the SPRINTER train. Currently, signage is located on the bottom of the fold up seats as well as the panel above the seats as illustrated in the Report "Photo 9 - Priority Seating Sign." NCTD has concluded that the signage is appropriate "as is" and no modifications are necessary. The signage is intentionally placed so that it is readily visible for all passengers. In addition, the signage font, size, and message is ADA compliant. For these reasons, NCTD will not be implementing Recommendation 17-32.

**Recommendation 17-33:** Consider assigning additional duties to Code Enforcement Officers and increasing the number of onboard patrols to assure rider safety.

**Response:** Full implementation of this recommendation is expected Fall 2017. As previously stated NCTD is adding Train Conductors onboard all SPRINTER trains. Train Conductors will perform a number of safety, security, and operational duties to include management and reporting of customer events. Train Conductors will be placed on every revenue SPRINTER train once training of new employees has been completed.

Additionally, NCTD has executed a Memorandum of Understanding (MOU) with the Escondido Police Department. The MOU allocates officers to be on call at the Escondido Transit Center during specified times. A similar agreement with the Oceanside Police Department received approval from the Oceanside City Council on August 9, 2017 and is under review for execution. NCTD has also enhanced its existing contract with the San Diego Sheriff's Office to add two (2) additional deputies (for a total of 1 Sergeant and 7 Deputies) for law enforcement and security activities on the NCTD system, including the SPRINTER corridor.

NCTD believes these actions fully address Recommendation 17-33 of the Report.

**Recommendation 17-34:** Consider upgrading the SPRINTER surveillance camera system to facilitate live monitoring of onboard cameras by security and dispatch personnel.

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**Response:** This recommendation will not be implemented at this time because it is not reasonable or feasible. NCTD agrees that the SPRINTER surveillance camera would be more beneficial if it facilitated live monitoring. Prior to the Grand Jury's inquiries, NCTD was already advancing plans to upgrade the SPRINTER camera system. The upgrades are expensive and currently not funded. With that said, NCTD believes that it is reasonable to expect that this project be fully implemented by the end of calendar year 2022. NCTD intends to pursue this recommendation; however it is not reasonable to implement or complete a study within the six month time frame outlined by California Penal Code §933.05(b). Further, NCTD believes that the addition of Train Conductors significantly mitigates the need to implement Recommendation 17-34 at the expense of other state of good repair needs of NCTD.

NCTD appreciates the time and efforts of the members of the Grand Jury. We believe our responses indicate our commitment to safe, reliable, and efficient transportation that meets the needs of our customers.

Sincerely,



Matthew O. Tucker  
Executive Director

cc: NCTD Board of Directors  
Alan I. Baskin, Foreman, San Diego County Grand Jury  
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