



Board Report

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EXECUTIVE MANAGEMENT COMMITTEE OCTOBER 15, 2020

SUBJECT: CUSTOMER CODE OF CONDUCT - TRANSIT COURT

ACTION: RECEIVE AND FILE REPORT

RECOMMENDATION

RECEIVE AND FILE report on the Customer Code of Conduct and the status of Transit Court operations during the Covid 19 era.

ISSUE

This report is in response to questions about the sufficiency of the Metro Customer Code of Conduct to address local and state government orders related to the pandemic, and Transit Court adjustments of its operations during this period.

BACKGROUND

In or about March 2020 the Covid 19 pandemic reached a point where for the safety of employees and passengers, Metro streamlined its operations to provide service consistent with on-street realities of reduced ridership, workers were instructed to begin telecommuting if their job duties permitted, the Gateway headquarters building was closed to visitors, schools and businesses were ordered closed or restricted in the manner they provide services, and Safer At Home type orders were issued across the nation, by the State of California and local jurisdictions to stem the tide of contagion. The orders issued included matters such as:

- Stay 6 feet apart (where possible);
- Wear a mask;
- Wash hands frequently;
- Avoid large gatherings;
- Stay at home or a fixed location as much as possible;
- Get tested if you have been exposed to the virus or have symptoms; and
- Report exposure or positive diagnosis to your employer to manage the spread.

On the Metro system, we asked persons to wear a mask, stay 6 feet apart where possible, cordoned off the front of the buses and began rear boarding only.

On September 14, 2006, Senate Bill 1749 amended Penal Code section 640 of the California Penal Code and added Chapter 8 to Part 11 of Division 10 of the California Public Utilities Code, authorizing the creation of an administrative civil penalty process for passenger conduct offenses occurring on the public transit system. The administrative adjudication process for passenger conduct violations is codified in California Public Utilities Code sections 99580, et seq. Metro's ordinance implementing these sections is contained in Chapter 6-05 of the Metro Administrative Code, otherwise known as the Customer Code of Conduct ("Customer Code") which was approved by the Metro Board on July 22, 2010 and has been amended several times over the years.

DISCUSSION

SUFFICIENCY OF THE CUSTOMER CODE OF CONDUCT

The purpose of the Customer Code is to provide the public with the relevant transit rules and information in one document (posted online and published in a convenient booklet available to the public in multiple languages), and to promote public safety and enjoyment of the Metro system. The ordinance sets forth the rules for use of Metro facilities and riding Metro vehicles. It explains the enforcement of the rules that occurs through a fair, impartial administrative procedure with due process in Metro Transit Court, affording resolution of transit violation citations through appeals, payment of fines, and diversion programs such as Transit School or community service. It provides notice that repeated violations resulting in multiple citations that the patron continually fails to resolve may result in suspension from use of the system for a short period.

The Customer Code is comprised primarily of Penal Code section 640 transit offenses that have been decriminalized such as fare evasion, smoking, eating, and drinking in Metro vehicles and facilities. The Customer Code also includes regulations such as those concerning proper safe use of escalators on Metro property, lost and found procedures, and littering.

At the outset of the Covid 19 period, some questions were asked about the applicability of the Metro Customer Code of Conduct (rev 5/1/2019) to the Covid 19 circumstances.

Question Number 1: Does the Customer Code need to be amended to address the Safer At Home related orders issued as mentioned herein, such as social distancing and wearing a mask, while in the Metro system?

Answer Number 1: There are provisions in the Customer Code that may be used to effect directives of the Agency during the Covid 10 period. The Agency can urge or require compliance, by verbal instruction, announcements, or the posting of a sign in our facilities, vehicles, and on the Metro web site. There is no need to revise the Customer Code to effectuate the Safer At Home orders as they relate to the use of the Metro system unless at some time we determine that the orders are going to exist long term or indefinitely. Some of the relevant sections of the Code include:

6-05-010 VALUES

[...]. B. Patrons shall treat other patrons and Metro representatives with consideration, patience, respect, and civility to allow use, operation, and enjoyment of the Metro system in a safe and gratifying manner for all persons.

6-05-020 DEFINITIONS

[...]“Metro representative” means a Metro security officer, operator, fare inspector, or other authorized Metro employee, board or sector council member, or contractor.

6-05-050 BLOCKING

Impeding the safe boarding or exiting of passengers.

6-05-080 CIVILITY, COMPLIANCE, AND COOPERATION

[...] 14 B. A person must comply with all lawful orders and directives given by an authorized Metro representative relative to Metro facilities or vehicles consistent with the Code, including any instruction to leave a Metro vehicle or facility for safety reasons, for a violation of the Code, or following a notice of ejection or exclusion.

6-05-100 DISORDERLY CONDUCT

The following acts are prohibited in, on, or in close proximity to Metro facilities and vehicles:

A. Expectorating (spitting).

6-05-140 MISCELLANEOUS

The Code is not intended to affect lawful activity or first amendment rights protected by state or federal law, including laws related to collective bargaining, labor relations, or labor disputes.

- B. Metro reserves the right to suspend, waive, modify, limit, or revoke the application of the Code.
- C. Metro may refuse service, or access to Metro facilities or vehicles, including eject or exclude, to any person who does not comply with the Code or applicable laws.
- D. The Code incorporates all relevant applicable legislative changes that occur after the date the Code is adopted. [...]
- F. The Code applies with equal force to any person who aids or abets in any of the acts prohibited by the Code or in the avoidance of any of the requirements of the Code.
- G. Individuals with disabilities may visit metro.net for information and request a reasonable modification of the provisions of this Code. Whenever possible a request for a reasonable modification shall be made in advance to Metro at accessibility@metro.net, 213.922.6919, or at MS 99-21-5, 1 Gateway Plaza, Los Angeles 90012. If a request for a modification is made to a Metro operator or other Metro representative the employee may contact his or her supervisor or control center for guidance. Requests for reasonable modifications will not be approved if the request would: fundamentally alter the nature of the service, program, or activity; create a direct threat to the health or safety of others; result in an undue financial and administrative burden; or the individual would be able to fully use the services provided by Metro without the modification. Individuals with disabilities may file complaints regarding reasonable modification or accommodation with Metro Customer Relations by telephone at 800.464.2111 or via email at customerrelations@metro.net.

6-05-190 SAFETY

- A. The following acts are prohibited in Metro facilities and vehicles:
 - [...] 2. Interfering with the safe operation or movement of a Metro vehicle.[...]
 - 9. Creating a danger to other persons. [...]
 - 11. Engaging in any unsafe activity other than those described in Safety Subsection 6-05-190 of the Code.
- B. To avoid injury, patrons must use care at all times when on or in a Metro facility or vehicle.

6-05-200 SIGNS

- C. Persons shall obey any sign that is intended to provide for the safety and security of transit passengers or the transit system.
- D. Persons shall also obey all other notices and signs posted by Metro in a Metro facility or vehicle.

The city mayors and county Board of Supervisors orders are not legislation, but they are presumably lawful orders that can be enforced by our Transit Security or law enforcement if we ask them to do that. Also, we can provide adequate notice to the public such as posting signs on our buses, making announcements, or other action to provide notice to our customers.

We believe notice of what Metro is requesting or requiring has been adequately communicated to the public, because Metro Operations reports an extraordinary 99% compliance by our customers with the orders, and we are giving masks to persons who don't already have one when they get on our system.

Question Number 2: How has Transit Court operations adjusted to continue to serve customers during the Covid 19 period?

Answer Number 2: Transit Court has continued to operate during the Covid 19 period. Transit Court continues to perform its standard citation administration and hearing unit duties such as:

- Process citations;
- Answer callers' questions on the Transit Court customer care line;
- Process payments received for parking or Customer Code violations;
- Process refunds for persons who make overpayments;
- Perform initial reviews (1st level hearings);
- Perform hearings by declaration (2nd level hearings in writing); and
- Hearing appeals in person in Superior Court (3rd level hearings).

Processes that were suspended during the Covid 19 period are:

- In person hearings (2nd level hearings in person at Gateway);

- Community service (the entity that administers that program is closed);
- Enforcement of late fees for March 1 through June 1 (this is extended) upon request;
- Accepting cash payments at the Gateway Customer Service desk;
- The requirement for timely requests for appeals due after March 1; and
- In person Transit Court lobby access.

Service that was added during Covid 19 period are:

- Transit Court website information improvements and updates;
- Development of remote on-line hearing procedures (in process);
- Preparation of Transit Court South facility;
- Website on-line initial review appeal request forms (1st level hearings); and
- Website published email address for contacts with Transit Court.

TRANSIT COURT STATISTICS

The Los Angeles County Sheriff's Department, Los Angeles Police Department, Long Beach Police Department, and Metro Transit Security Officers are responsible for enforcement of the Code and other applicable laws on the Metro system. Metro Transit Security Officers primarily issue citations for improper parking at Metro properties around the County including Gateway and transit citations in the Metro system for violations such as fare evasion and littering.

Citations that are covered by the Customer Code, including those acts described in Penal Code section 640 that have been decriminalized such as fare evasion, are sent to Metro to process through its vendor and to adjudicate if necessary in Transit Court.

The issuance of transit Customer Code related citations in FY 2020 decreased from 31,650 to 12,680 citations. Parking citations increased during FY 2020 from 13,907 citations to 14,245, despite halted enforcement during COVID in FY 2020, which is the most parking citations than any previous year. These changes may be due to changes in the enforcement model such as favoring warnings over citations. Parking Management hired new enforcement personnel and started to improve parking monitoring in September 2018 resulting in the issuance of more parking citations. The reasons for the issuance of more or less citations is beyond the jurisdiction of this department. Because we have set up the department with a bench of expert attorney Hearing Officers who work, as the demand requires, we are able to efficiently handle changes in workload as they are occurring.

CONCLUSION

The Customer Code provides effective focused communication of how to ride Metro's system in a safe manner. The language in the Customer Code provides adequate flexibility and authority to adjust with the times and emergency needs and events by providing notice through the posting signs and make announcements of requirements such as the wearing of masks and social distancing as best practices on the system.

Transit Court fulfills a purpose of promoting a more fair and open system and to increase the safety and enjoyment of Metro customers. The operations of Transit Court have continued and adjusted to meet the needs and circumstances of the current pandemic conditions. Staff has adjusted their work hours, methods and processes to continue to provide service in a fair and compassionate way during this period.

FINANCIAL IMPACT

While Covid 19 is having an impact on the number of citations and the collection of fines, the costs of the vendor's citation processing continues. The impacts on staffing requirements and slightly reduces hearing officer expenses. Impacts overall are negligible.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Goal 2: Deliver outstanding trip experiences for all users of the transportation system. Initiative 2.3 - Metro will improve

customer satisfaction at all customer touch points. Transit Court operations are continuing and adjusting to meet the Covid 19 demands and circumstances while continuing to service customers.

NEXT STEPS

The opening of Transit Court is proceeding and is anticipated to provide limited access and services until the staffing restrictions are lifted and other circumstances of Covid 19 decline.

Prepared by: Julie Chang, Interim Senior Manager, Metro Transit Court, (213) 922-6881

Reviewed by: Karen Gorman, Chief Hearing Officer, Metro Transit Court, (213) 922-2975



Karen Gorman
Inspector General