TRB Webinar: Transit Exclusion Policies in Public Transportation Systems

June 27, 2024
12:00 – 1:30 PM
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Purpose Statement

This webinar will discuss ways exclusion policies are implemented and used by transit agencies, the major issues and challenges of the policies, measuring effectiveness, and the impact on crime.

Learning Objectives

At the end of this webinar, you will be able to:

(1) Incorporate lessons learned from other transit agencies on the use of exclusion policies at their agencies

(2) Consider approaches that may improve or address gaps in current agency exclusion policies to make them more effective

(3) Identify strategies to address the issues and challenges with exclusion policies
Questions and Answers

• Please type your questions into your webinar control panel

• We will read your questions out loud, and answer as many as time allows
Today’s presenters

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Deb Matherly
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Research Objective

• Document the practice and use of exclusion policies in N. American transit systems

• Research results allow transit agencies to better understand:
  o extent of use of exclusion policies at transit agencies
  o how exclusion policies can be crafted
  o when they might be used
  o how to measure their effectiveness
Agenda

Pat Bye

- Use of Exclusion Practices
- Implementation of Policies
- Effectiveness of Policies

Deb Matherly

- Case Studies
- Challenges
- Conclusions
Literature Review and Survey Results
Literature Review

Transit Studies

Agency Website & Press Releases

Agency Reports, Policies
Survey Respondents and Service Areas

- 25 States
- Rural to Intercity services
  - 15K to 34M annual ridership
  - 200K to 160M passenger miles
Summary of Findings: Common Definitions

“Exclusion” is a policy that effectively bans violators from using transit system for a specific period of time.

Transit agencies have similar definitions for exclusion, but may use different terms such as:

• Suspension
• Prohibition
• Ban
Summary of Findings: Use of Exclusion Policies

• Many agencies have exclusion policies.
• Some have had them in place for some time:
  o 2004 survey of U.S. transit agencies found that 62% of the 60 transit agencies responding had excluded passengers in the past three years
  o Online search found numerous instances from 2008 onward
• Those that do not have exclusion policies:
  o currently lack the authority to establish one,
  o are in the process of establishing one,
  o do not have behavioral problems severe enough to require one.
Agency Exclusion and Ejection Policies

Percentage of Agencies

- **YES**: 83%
- **NO**: 17%

**Both exclusion and ejection policies (75%)**

**Ejection policy only (20%)**

**Exclusion policy only (5%)**
Number of Passengers Excluded/Suspended

<table>
<thead>
<tr>
<th></th>
<th>In Past Year (% of agencies)</th>
<th>In Past 3 Years (% of agencies)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>Less than 10</td>
<td>50</td>
<td>44</td>
</tr>
<tr>
<td>10-29</td>
<td>19</td>
<td>33</td>
</tr>
<tr>
<td>30-50</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>51-100</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>101-500</td>
<td>12</td>
<td>6</td>
</tr>
<tr>
<td>Over 500</td>
<td>0</td>
<td>6</td>
</tr>
</tbody>
</table>

- Majority have suspended or excluded fewer than 10 passengers
- Fare evasion is most common infraction for agencies with large number of suspensions
Offenses Included:
Agency Code of Conduct
Summary of Findings: Types of Offenses

**Exclusion**
- Defacing/Vandalizing facilities
- Disorderly conduct
- Indecent exposure
- Interfering with operations
- Lighting incendiary device

**Ejection**
- Refusing safety restraints
- Using illegal drugs
- Spitting
- Assault of transit operator or employee
- Assault of passenger

**Ban**
- Assault of transit operator or employee
- Assault of passenger
- Sexual assault
- Trespassing

Factors determining exclusion, ejection or banning:
- Number of repeat offenses
- Severity of offense
- Varies by incident
Summary of Findings: Implementation

Approaches determined by staffing and resources available

Some authorizations include specifications for implementation:
• who can issue citations and orders
• what type of oversight is necessary
Agency Security and Law Enforcement Forces

Range of available forces:

• 27% - dedicated transit police force
  ❖ 12% have in-house security force

• 50% - local police as part of patrol
  ❖ 19% have dedicated local patrol
  ❖ 9% have local police as needed

• 35% have contracts for private security
<table>
<thead>
<tr>
<th>Role</th>
<th>Identifies Infraction</th>
<th>Notifies Passenger</th>
<th>Removes Passenger</th>
<th>Identifies People Ignoring Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operators or Drivers</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Supervisors</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Security Staff</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Transit Police</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Local Law</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Legal Staff</td>
<td>✓</td>
<td>✓</td>
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Summary of Findings: Enforcement

• Exclusions are effective only to the extent that they can be enforced.

• Agencies utilize a number of methods to enforce an existing exclusion or ban:
  o Transit police show patrols photographs of suspended or banned riders so they can be on lookout for people ignoring their suspension.
  o Agencies train operators/drivers to identify faces of suspended/banned passengers.
  o Photographs are commonly posted in employee facilities such as break rooms.
Summary of Findings: Training

• Dependent on requirements of agency specific exclusion policy, on enforcement process in place, and overall agency approach to training and passengers.
  o More than half (57%) provide training on exclusion policy.
  o Some (13%) consider policy enforcement procedure clear enough ("call police") that detailed policy specific training is not necessary.
  o Most agencies train operational staff – managers, supervisors, operators, drivers and other vehicle personnel. Some train entire agency.

<table>
<thead>
<tr>
<th>Trained Personnel</th>
<th>% of Agencies</th>
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<tbody>
<tr>
<td>Drivers, Operators, Vehicle Personnel</td>
<td>67%</td>
</tr>
<tr>
<td>Operational Supervisory Staff/Managers</td>
<td>89%</td>
</tr>
<tr>
<td>Agency Police, Security Personnel</td>
<td>33%</td>
</tr>
<tr>
<td>Entire Agency</td>
<td>22%</td>
</tr>
</tbody>
</table>
Training Content

• Exclusion policy and procedures
  o Technical - working with law enforcement, supervisors, etc.
  o Operational - Balancing rule enforcement with compassion

• Awareness, cultural, conflict resolution and de-escalation training
  • Tips on common encounters, symptoms, interventions
Agency Examples

California training requirements are encoded in law and includes:
  - Familiarization with the elements of the infractions included in policy.
  - Citation issuance and court appearances.
  - Handling argumentative violators and diffusing conflict.
  - The mechanics of law enforcement support and interacting with law enforcement for effective incident resolution.

Fort Worth Transportation Agency training addresses relationships with all customers as opposed to focusing on belligerent customers.

“Operators are taught to understand situations in which common sense and compassion are more important than strict observance of the rules.”
Agency Examples

EMBARK

• Has drivers, the people who were dealing with relevant situations every day, conduct the training which made a significant difference in effectiveness and impact of training.

• Partnered with local social service organizations to provide training to staff:
  o how to deal with someone who is in trauma, such as domestic violence or being trafficked domestic violence,
  o human trafficking and elder abuse,
  o mental health issues including how to recognize someone that might need assistance.
Legal Findings: Appeal Process

- Courts have ruled that an agency may not impose even a temporary suspension without providing the core requirements of due process:
  - adequate notice
  - a meaningful hearing at which the accused are given a full fair opportunity to present their cases.
  - However, it is not required that the notice and hearing occur before the suspension takes effect.

- TCRP LRD 20 found no cases that held that a transit agency’s act of barring or suspending a transit user from the system is a deprivation of a right or otherwise triggers some requirements of due process.
Types of Appeal Process

- Transit agencies were found to have a variety of exclusion or suspension appeal processes.

- Internal processes are an internal hearing conducted by either a designated review panel or designated review personnel.

- Decisions of the appeal hearing or panel are usually final.
  - Some agencies whose code of conduct is enshrined in state legislation, such as LA Metro, allow appeals to the state court system.

<table>
<thead>
<tr>
<th>Agency Process</th>
<th>Hearing Lead</th>
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<tbody>
<tr>
<td>Internal Hearing</td>
<td>Deputy Chief, Security Operation Bureau</td>
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<td></td>
<td>Manager of Safety &amp; Security</td>
</tr>
<tr>
<td></td>
<td>Exclusion Officer</td>
</tr>
<tr>
<td>Internal Panel</td>
<td>General Manager</td>
</tr>
<tr>
<td></td>
<td>Agency managers of Customer Service, Operations, Safety</td>
</tr>
<tr>
<td></td>
<td>Local Advisory Committee Members</td>
</tr>
<tr>
<td>Court Hearing</td>
<td>Agency Hearing Officer</td>
</tr>
</tbody>
</table>
Summary of Findings: Effectiveness

• Agencies believe the policies are effective. More than half rated policies as effective or very effective. Only 15% said they were ineffective.

• However, evidence of their impact on crime is limited. Only one third of respondent had conducted analysis of effectiveness and impact of agency exclusion policy.

<table>
<thead>
<tr>
<th>Type of Analysis</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>Reduction of incidents</td>
<td>39%</td>
<td>61%</td>
</tr>
<tr>
<td>Impact on employee &amp; customer safety</td>
<td>42%</td>
<td>58%</td>
</tr>
<tr>
<td>Impact on crime</td>
<td>27%</td>
<td>73%</td>
</tr>
<tr>
<td>Assessment of equity and fairness</td>
<td>17%</td>
<td>83%</td>
</tr>
</tbody>
</table>
Agency Example

BART

- Annual Prohibition Order Report includes analysis of effectiveness, impact on crime, and equity of program
  - Tracks repeat offenders, who are very small percentage (2-3%)
  - Reviews crime statistics and trends in relation to number of prohibition order issued
  - Tracks number of offenders “in crisis” or struggling with mental health condition
  - Reports age, race, and gender of people issued prohibition orders
Effectiveness Analysis: Lessons Learned

• Extensive tracking and monitoring of prohibition orders, types of crimes and offenses, appeals, repeat offenders, and demographics to track potential equity concerns help support the program’s legitimacy and transparency.

• Comparative analysis of trends in prohibition orders and crime data can help identify the effectiveness of the policy and areas to be addressed and also provides means and metrics to assess changes in the safety and security of the system.
Case Studies
Case Examples

• Crime impact and program performance analysis - BART

• Customer education regarding policy – MARTA

• Training Programs – EMBARK and others

• Dependence on local police - PSTA and Sound Transit

• Working with Local Law Enforcement – Metro Transit and EMBARK

• Working with Social Service Agencies – BART and Phoenix Valley Metro
Communications and Public Engagement

- Distributing Notices – 40%
- Conducting Community Surveys – 10%
- Meeting with Community Associations – 20%
## Policy Notification Communication Channels

<table>
<thead>
<tr>
<th></th>
<th>Employees</th>
<th>Agency Police</th>
<th>Local Law</th>
<th>Community Partners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>Supervisor Notification</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td></td>
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<tr>
<td>Agency Meeting</td>
<td>✔</td>
<td></td>
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<td>✔</td>
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<tr>
<td>Internal Agency Newsletter</td>
<td>✔</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Facility Posting</td>
<td>✔</td>
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<td>✔</td>
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</table>
MARTA: Ride With Respect
Working with Local Law Enforcement

- Most transit agencies do not have their own security or police force and are reliant on local law enforcement.
- As service areas often traverse many jurisdictions, this can include dozens or more local law enforcement agencies.
- Law enforcement agencies often don’t prioritize transit crimes.
- Some agencies work regularly with law enforcement on their priorities and to find win-win solutions, e.g., PSTA and EMBARK.
Agency Examples

SOUND TRANSIT
- Made it easy for local police to quickly address incidents with little to no paperwork or administrative burden

METRO TRANSIT
- Establish a partnership with police to provide a part-time security presence

VALLEY METRO
- Regional Security Team (RST), chaired by the Valley Metro’s Director of the Safety/Security Office, provides a forum to share information and coordinate on priority issues.
Working with Social Service Agencies

• Partnerships are critical. Relying on enforcement alone does not work.

• Transit agencies have recognized the need to work with social service agencies and with local jurisdictions to address underlying problems such as homelessness.

• Partnerships are critical to success. Agencies have established partnerships with law enforcement, prosecutors, the courts, the municipal human services department, and other social services agencies to create an effective program.

• A successful program to change behavior requires both assistance and consequences. A combination of penalties and inducements is necessary.
Agency Examples

SOUND TRANSIT

• Conducted pilot project with two-person team, a social worker and a person with lived experience (formerly homeless, formerly addicted)
  o proactively reaching out to individuals at stations and helping them access social and medical services available

EMBARK

• Partnered with local social service organizations to address broader issues:
  o contracted with Mental Health Association to hire caseworker to be assigned to EMBARK
  o meeting with other city agencies to explore how can work collaboratively with existing programs.
Pocket guide reminders with tips on common encounters, symptoms
Challenges and Conclusions
Challenges

• Exclusion for people who are unhoused, or with mental health challenges, or with cultural or demographic differences may lead to disparities and inequity in outcomes.

• Enforcement (and potential for enforcement) should lessen not worsen existing problems such as operator assaults.

Challenges Noted in Surveys
(Percent of Respondents Who Reported Encountering Challenges)
Conclusions

• Many transit agencies have exclusion policies in place, with more coming.
  • Passengers and operators express concern about their personal safety
• Policies vary by agency and by type of behavior or crime.
• Implementation varies depending on dedicated security/police force, vs. reliance on local law enforcement, on enabling legislation, and agency priorities.
• Most agencies believe the policies are effective and necessary.
• Enforcement alone doesn’t work. Partnerships are critical to success.
• A successful program to change behavior requires both assistance and consequences.
Suggestions for Future Research

• Approaches to measure the effectiveness of exclusion policies are advisable.
  Transit agencies are using different measurements to assess their policies, such as reduction in number of incidents or percentage of repeat offenders

• Approaches to analyze impacts of the policies on crime are needed.
  There is little information documented in the literature on current approaches to analysis and minimal academic studies addressing this issue.
Questions?

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Report available at:
https://doi.org/10.17226/27474
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June 23-26, 2024

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