

RACE, SPACE, AND STRUGGLES FOR MOBILITY:  
TRANSPORTATION IMPACTS ON AFRICAN AMERICANS IN OAKLAND  
AND THE EAST BAY

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*Abstract:* A long history of overt discrimination left an enduring racialized imprint upon the geography of the East Bay. While the benefits of a metropolitan decentralization of jobs, housing, and public investment fell to Whites, discrimination in employment and housing trapped African Americans in urban neighborhoods burdened by infrastructure encroachment and divestment. By circa 1970, overt discrimination succumbed to new, racially neutral, legal, and administrative forms, including regional planning processes. Using an environmental racism framework, we show that these new forms reproduced the existing racialized geography by means of new inequalities in representation and transportation service provision. These new regional transportation policies, like those challenged by a 2005 civil rights lawsuit, favored the mobility needs of more affluent suburbanites over those of African American East Bay bus riders. These policies, layered onto an existing racialized geography, reinforced existing inequalities by failing to address racial barriers to opportunity in the built environment. [Key words: transportation, race, segregation, Oakland]

## INTRODUCTION

In April 2005, a class of minority bus riders and their allies filed a federal civil rights lawsuit against the Metropolitan Transportation Commission (MTC), the metropolitan planning organization (MPO) for the San Francisco Bay Area, *Darensburg et al. v. Metropolitan Transportation Commission*. The plaintiffs pointed to disparities both in the subsidy per rider (about \$3 per trip for bus riders vs. between \$6 and \$14 for rail riders) and in service levels over the last two decades (stagnant bus service while rail service more than doubled) (Public Advocates, 2009a). They asserted that several of MTC's regional transportation planning and funding practices, by prioritizing the

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expansion of suburban rail service for riders who tended to be more affluent and White, caused declining levels of service for Oakland bus riders, some 80% of whom were low-income people of color. Ultimately, the District Court ruled in MTC's favor, agreeing that these racial disparities were justified by MTC's need to balance competing interests and satisfy diverse and, to some extent, conflicting mandates. The Ninth Circuit Court of Appeals affirmed the ruling. In the view of John Noonan, who concurred in the 2011 decision, "[t]he notion of a Bay Area board bent on racist goals is a specter that only desperate litigation could entertain" (Ninth Circuit Court of Appeals, 2011, p. 2574).

Judge Noonan's dictum, to which we return later, exemplifies one prevalent contemporary view of race, that the significant effects of race discrimination ended with the era of *de jure* racism. Proponents of this view believe we have entered what is sometimes called a "post-racial" or "color-blind" era, where race no longer affects equality of opportunity and the fairness of outcomes. According to this view, the fact that decisions in this "post-racial" era like MTC's, rest on racially neutral criteria and technical analyses assures that they have no racialized consequences. We argue here that this "post-racial" narrative rests on a superficial understanding of history. In particular, it overlooks the ways in which history leaves its ongoing marks on geography. A closer look at the historical record shows the deep imprint that overt racism has left on the built environment, and allows us to appreciate how racially neutral decision-making of the period since the civil rights movement, by layering onto a segregated metropolitan geography, acts to reproduce, and reinforce racial barriers to opportunity (see also Schein, 2012; Wilson, 2012; Wilson and Sternberg, 2012). Utilizing an environmental racism framework and focusing in particular on transportation infrastructure and planning, we explore in this piece the regional inequities created during the period of overt racial discrimination and the reproduction of those inequities by recent policies. The period of overt discrimination, prior to about 1970, is dominated by a number of highly racialized strands that include *de jure* job and housing discrimination, the resulting segregation and isolation of African American communities, the harmful impacts of infrastructure encroachment, and transportation service divestment. These strands are woven together into a dense and durable rope which, in the words of historian Robert Self (2003), represents a "white noose" that defined a geography of suburban opportunity for Whites surrounding urban exclusion for people of color. The end of *de jure* discrimination did little to untie that noose.

To be sure, the civil rights movement brought significant changes in the law and social attitudes. By the early 1970s civil rights laws prohibiting outright discrimination in housing and employment were beginning to take hold, urban renewal policies were modified as their enormous impact on poor Black communities was widely recognized, and the worst of the urban destruction wrought by the national highway system was over. Dramatic changes in law, policy, and investment, however, did not bring equally dramatic changes in the racialized geography of the East Bay—the white noose has not noticeably frayed. Our thesis, contrary to the "color-blind" view of Judge Noonan, is that MTC reinforced the noose by distributing the benefits and burdens of new transit investment onto an already racialized geography. As a result of that geography, the riders of suburban rail systems are more likely White than the population at large, while urban bus riders are more minority communities. Thus, race-neutral policies that promoted rail expansion at the expense of bus service had the effect of reproducing existing racial inequities in the region.

In this article, part I sets out the conceptual framework of environmental racism. We apply this framework to the regional inequalities of the East Bay focusing on the role played by transportation systems. Transportation decisions are capable of creating and re-creating metropolitan inequalities in the distribution of benefits and burdens in three ways: (1) participation in the planning decisions that allocate transportation resources is an important aspect of urban decision-making, and the exclusion of some communities from participation in that decision-making can itself contribute to an unequal distribution of the benefits and burdens of its outcomes (Freudenberg et al., 2010); (2) transportation infrastructure can create localized environmental burdens, such as noise, pollution, and displacement; and (3) the distribution of mobility powerfully shapes the geography of opportunities available to residents of different races, classes, and communities.

While the environmental racism framework has been applied to the first and second of these—the distribution of localized nuisances and representation in decision-making—we extend it here to focus on the last: the distribution of mobility benefits of transportation services. These mobility benefits, as we will show, constitute an important aspect of the physical and social environment, increasingly recognized for its important impact on the health of urban communities. We also argue for the importance of distinguishing between investments that benefit low-income communities of color, such as local bus service, and those that, while potentially beneficial, such as commuter rail service, may fail to meet their needs, while actually impacting them much more through their harmful effects, such as displacement, or the diversion of resources from local bus operations.

Part II recounts the historical forces that carved out the racialized geography that marked the East Bay by 1970. These forces can be traced back to the post-Civil-War settlement of the African American community in the East Bay, through the Jim Crow era, through New Deal and wartime planning, and through the post-World War II process of suburban development and urban renewal. We trace two histories: (1) of metropolitan expansion and decentralization, investments in the regional Bay Area Rapid Transit (BART) rail system and freeway systems, and the suburban dispersal of Whites, jobs, housing investments, and tax base; and (2) of African American segregation and discrimination in jobs and housing, neighborhood decline from lending discrimination, infrastructure encroachment, and urban renewal, and divestments in urban transit services such as the Alameda-Contra Costa Transit (AC Transit) bus system. These histories produced two geographies: (1) the mostly White Southern Alameda County to the south of Oakland, and Contra Costa County to the north and east (Figure 1); and (2) the inner East Bay with a diverse racial and class mix and the historical settlements of African Americans in West, North, and East Oakland and South Berkeley. The resulting map of opportunity and exclusion made mobility all the more important to the residents of the inner East Bay by 1970 as a gateway to opportunity, and cuts to transit service in their communities all the more devastating. The enduring effects of these strands of history show themselves when they are woven together in the context of the shaping of the physical environment.

In Part III, we move into the contemporary period, beginning in circa 1970, where the rules changed but racial inequalities persisted. We focus this study on the period up to the filing in 2005 of the civil rights lawsuit mentioned earlier. Employment, income, health, and many other indicators show little improvement, and indeed, segregation and isolation are worse than before for many communities of color. Struggles during this period over the three distributional impacts of transportation—participation and representation,

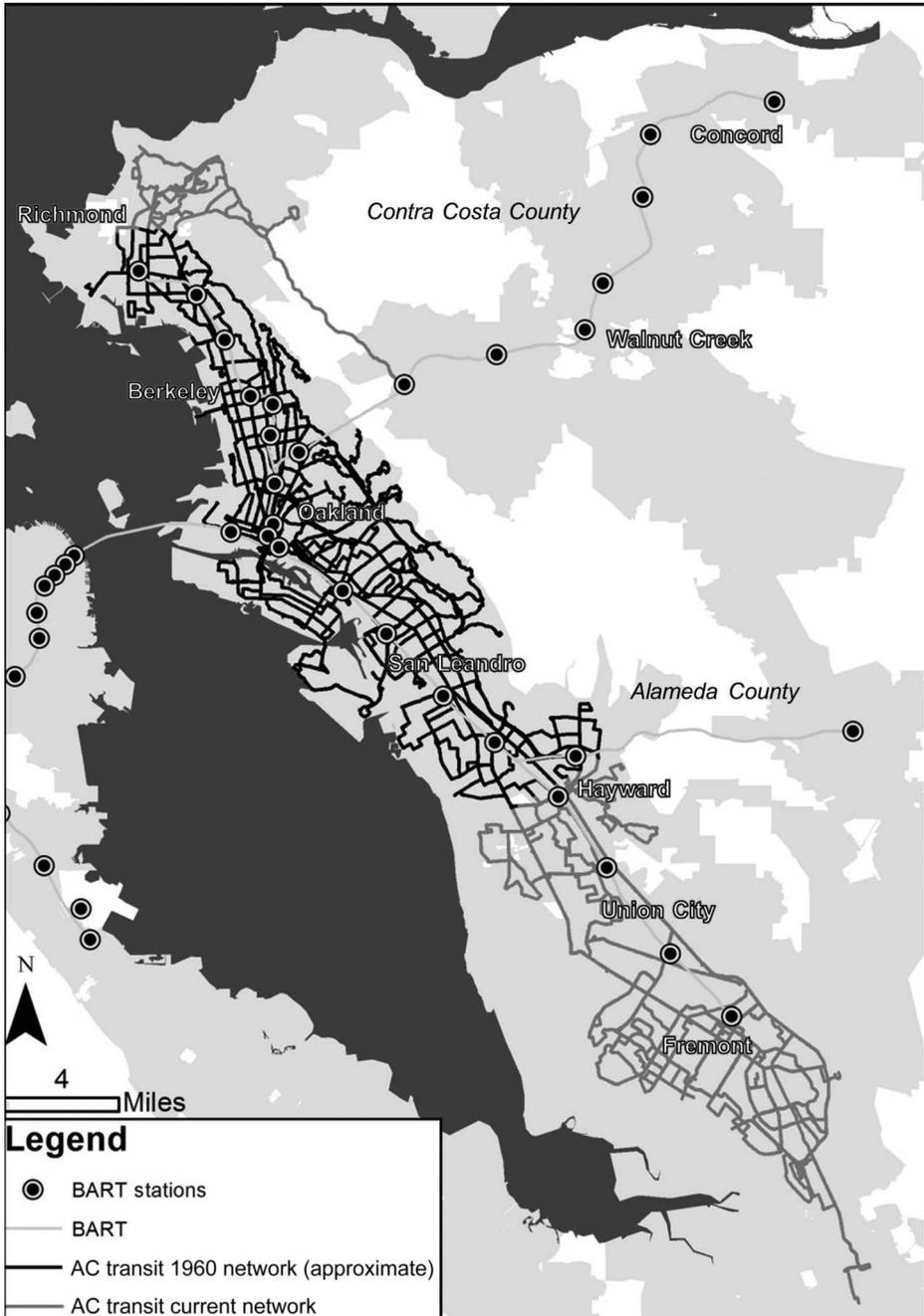


Fig. 1. Map of the East Bay.  
Source: Produced by author using publicly available GIS files.

infrastructure impacts, and service disparities—now take place against the backdrop of new legal and procedural frameworks. With the creation of MTC in 1970, a new forum for regional planning existed that could, potentially, have addressed regional inequities. This promise has not been realized<sup>3</sup> Without delving into a detailed evaluation of the new planning procedures and policies that the *Darensburg* plaintiffs challenged (see Rubin, 2008), we instead focus on assessing the success of race-neutral decision-making in overcoming the existing racialized landscape. We find that policies that prioritized investments to meet the transportation needs of suburban communities on the basis of neutral, technical justifications have had the effect of reproducing historic patterns of discrimination. In particular, inadequate funding of urban bus service has contributed powerfully to the continued isolation of inner core communities.

Finally, we conclude in Part IV by contrasting our historical view with that of a “color-blind” society employed by Judge Noonan. We highlight the enduring disparities in the decision-making and representation, localized environmental burdens, and differences in transportation service and subsidies. We conclude that processes that reproduce urban injustice and segregation continue under new rubrics—the neutral and technical decision-making spaces of our so-called “post-racial” era.

## PART I: THE ENVIRONMENTAL RACISM FRAMEWORK

The environmental racism literature addresses itself to the persistence in the present of past segregation and discrimination in the urban environment. Specifically, it asserts that certain forms of discrimination, by shaping the built environment and physical settlement patterns, leave a cumulative physical imprint on the metropolitan landscape (Pulido, 2000). Current decisions that relate to that landscape, while they may be made on race-neutral (e.g. “technical” or “market based”) bases, inexorably perpetuate past discriminatory outcomes by failing to reconfigure the inherited racialized landscape. Their propensity, indeed, is to capitalize on that inherited landscape.

As a result, environmental racism studies have shown that these race-neutral processes can constitute powerful new forms of race discrimination. Exploring the historical background of current environmental inequalities in Southern California (Pulido, 2000; Pulido et al., 1996; Sidawi, 1997), Phoenix (Bolin et al., 2005), the City of Commerce in LA County (Boone and Modarres, 1999), and Baltimore (Boone, 2002), these studies

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<sup>3</sup>The new legal and procedural regime has resulted in some localized successes. The National Environmental Policy Act (NEPA) and Title VI of the Civil Rights Act procedures have been used to some success as tools to mitigate, especially burdensome impacts of specific projects, notably including two infrastructure projects in the East Bay: the Cypress Freeway reconstruction and the Fruitvale BART station parking expansion. After the 1989 Loma Prieta earthquake destroyed the Cypress Freeway, initial plans to rebuild in the same location by the California Department of Transportation (Caltrans) were met with widespread community opposition (FHWA, 2011). NEPA’s EIS process allowed the community to force Caltrans to route the freeway completely around the community, adding an extra mile to its length and \$500 million to its cost. In June of 1991, BART announced plans to build a new parking structure next to the station in the heart of the Hispanic Fruitvale District. The EIS for the project – the first for any BART project – allowed the community to force the project’s cancellation (Orozco et al., 2008). In its place, the community developed a project with housing, retail, and social services, eventually opening in 2003.

illustrate the ways in which the cumulative effects of past practices perpetuate a racially uneven distribution of environmental burdens today.

Historically, race has served not just as a demographic category but as a major shaper of urban development in the United States (Hirsh, 1993; Pulido et al., 1996; Schein, 2012). A range of well-known public policies and private practices over many decades contributed to shaping urban and metropolitan regions marked by racial segregation. These policies and practices—from discrimination in lending, housing, and jobs, to the effects of urban renewal and the blight of infrastructure encroachment, to the cumulative effects of urban divestment and discrimination on household wealth and property values—have brought with them a range of racially unequal outcomes (Hirsch, 1993; Massey, 1990). During this earlier epoch, the racialized state managed this process of differentiation and segregation in urban development (Kurtz, 2009) by means of overtly discriminatory policies, such as lending red-lining and neighborhood divestment.

This historical reliance on racial differentiation left an enduring imprint on the physical landscape. The resulting spatial segregation and isolation from opportunities for wealth accrual and social mobility have ongoing racial effects in current, facially neutral development processes. Race and the “racial state” continue to play a role, though in less overt ways. Now, new systems of rights are managed in such a manner as not to interfere with White privilege (Pulido, 2000) while race continues to factor into the continued coordination of urban development and capital accumulation (Schafran, 2012).

While the environmental racism literature has explored, in various ways, issues of decision-making and representation, and localized environmental burdens (e.g. noise, barriers, blight, shadows, vibration, and traffic impacts) (Holifield, 2001; Walker, 2009), the distribution of mobility benefits has not yet been treated. Thus, research on the interaction of transportation with race and urban development documents the challenges to representation in transportation decision-making, highlighting the increasingly technical character of regional planning which creates barriers to participation by the public and minorities (e.g. Bullard 2004; Denmark 1998; Sanchez et al., 2003), as well as the relationship between participation barriers and distributional outcomes (Freudenberg et al., 2010). Another substantial body of work finds that transportation has been used to segregate and isolate at a regional scale, and that the localized construction, displacement, and environmental burdens of transportation infrastructure are often disproportionately borne by minority communities (e.g. Bayor, 1988; Bullard, 2004; Henderson, 2004; Hodge, 1990; Mohl, 1993; Pucher, 1982; White, 1982).

Although not previously addressed by scholars of environmental racism, the third important intersection of transportation with race—the distribution of the mobility benefits transportation provides—has received much attention from urban planning scholars. They have shown that access to transportation services is an important and unequally distributed characteristic of the urban environment that combines with other environmental and social assets to contribute substantially to community health (Marmot and Wilkinson, 2006). Mobility improves access to employment and other destinations essential for health and well-being (e.g. Bullard, 2004; Denmark, 1998; Grengs, 2002; Lucas, 2006; Schweitzer and Valenzuela 2004), and inadequate access to transportation has profoundly negative impacts on communities by limiting opportunities for employment, education, recreation, and social interaction (e.g. Ihlanfeldt and Sjoquist, 1998; Lucas, 2006; Ong and Blumenberg, 1998; Schweitzer and Valenzuela, 2004; Taylor and Ong, 1995).

The environmental racism framework can be fruitfully applied to the distribution of both the benefits and the burdens of transportation decisions. A focus on both benefits and burdens has long been enshrined in environmental justice directives such as President Clinton's 1994 Executive Order 12898, which prohibits "denying persons (including populations) the benefits of . . . programs, policies, and activities [that substantially affect human health or the environment], because of their race, color, or national origin."<sup>4</sup> Like the siting of harmful toxics, the geographical targeting of beneficial investments and subsidies in transportation systems can be highly unequal by race, when the needs of urban bus riders, who tend overwhelmingly to be low income and people of color, are made a lower priority than those of suburban White populations. The distribution of mobility can be both a source of racialized development outcomes (as divestments in mobility can "trap" certain populations) and itself an outcome of the uneven investments in transportation which favor mobility for some over others (as investments made in some populations' mobility may come at the expense of others).

We will use the environmental racism framework to provide a view of regional inequalities—their production and ongoing maintenance—that contrasts sharply with the "post-racial" view. While corroborating past work on the distribution of decision-making and representation, and of localized *burdens*, we will introduce the impacts of the racialized distribution of the *benefits* of transportation investments. Like the siting of environmental burdens, the unequal distribution of mobility benefits has not been significantly mitigated under newer decision-making rubrics. The historical process of urban development in the East Bay was highly racialized, a story we tell in Part II. The racial impacts of that history are reproduced in current development processes, with the result that environmental outcomes (both the burdens and the benefits of development) continue unequally along lines of race, as we discuss in Part III.

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<sup>4</sup>Executive order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," requires that:

"To the greatest extent practicable and permitted by law . . . each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." (Clinton, 1994, pp. 1–101)

It further provides that:

"Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin." (Clinton, 1994, pp. 2–2)

Additionally, USDOT's directive implementing the EJ Order has defined "adverse effects" very broadly, to encompass fairness in the allocation of both the burdens and the benefits of public action. This definition prohibits the "the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities" such as the provision of transportation services (USDOT, 1997).

Our analysis focuses on the history of social practices and policies and their geographical and social outcomes. We summarize the workings of the racialized era and contrast them with those of the “post-racial” era for the three issues at play here: the distribution of access to representation, the distribution of burdens of transportation infrastructure, and the distribution of the mobility benefits of transportation services. We assemble a variety of quantitative and qualitative data from a range of sources including: (1) prominent histories of the East Bay; (2) ridership, fiscal, and census data; and (3) specific plans and policies and their evaluations and impact studies.

## PART II: EXPANSION, DECENTRALIZATION, AND CONTAINMENT IN THE EAST BAY: FROM RECONSTRUCTION TO REDEVELOPMENT

In this section, we paint in broad strokes a picture of the creation of a racialized geography over more than a century in the East Bay from the viewpoint of its minority communities, focusing on the Black community.<sup>5</sup> We begin by looking at segregation in jobs and housing, which had mutually reinforcing effects in inscribing a color line on the East Bay’s geography. We then turn to the impacts of transportation infrastructure and changes to transportation services, and their impacts on unequal urban development during this same period. By 1970, these forces combined to entrench a highly racialized geography, in which African Americans were trapped in disinvested communities burdened by the transportation investments benefiting suburban communities, while receiving few of the benefits themselves.

### *Segregation in Work and Housing*

As early as the mid-1800s, the map of racial segregation was already well entrenched in the East Bay, as in most United States cities. During that period, rail and shipping were among the few industries in which employment was available to non-Whites, drawing African Americans to jobs in the ports and warehouse of West Oakland at the western terminus of the Central Pacific Railroad. During the last decades of the nineteenth century, the railroad sector employed about one-fourth of all Black workers, and spurred the growth of Black neighborhoods in and around West Oakland (McBroome, 1993).

These already racialized settlement patterns were further entrenched after the 1906 earthquake, as thousands escaping devastation in San Francisco poured into local housing and job markets. By the mid-1910s, Jim Crow surfaced in the East Bay, bringing among other things proposals to legalize the existing de facto segregation (McBroome, 1993).

World War I created job openings for Black workers, spurring the start of a migration from the South which increased in the 1920s. The growing population of African Americans was met with an increasingly intense White reaction, including a temporary resurgence of the Ku Klux Klan in the 1920s that was effective in reinforcing the color

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<sup>5</sup>For full treatments of the history of the East Bay as it intersects with issues of race and class, the works of McBroome (1993), Rhomberg (2004), and Self (2003) are indispensable.

line (Rhomberg, 2004). This meant worsening conditions and crowding in West Oakland, promoted on the one hand by ordinances requiring segregated housing and on the other by mortgage red-lining and other schemes that limited homeownership opportunities for Blacks in other parts of the city.

In the 1930s and 1940s, opportunities and legal mandates for racial integration in jobs and housing did begin to arise, but their effectiveness was blunted or altogether thwarted by extreme White resistance. Roosevelt's 1941 Fair Employment Act reduced discrimination in defense jobs and defense-related housing, but did not open up most White neighborhoods to Black families (Rhomberg, 2004). Instead, the primary effect of this law was to redirect some of the flow of African American migration into a few other places around the Bay Area that became war-time shipyards, such as Richmond, Bayview-Hunters Point, Marin City, and Pittsburg. Like West Oakland, by the end of the war, these places contained significant African American communities.

Federally funded public housing during the New Deal was another example of legal intervention that failed to significantly alter the racialized geography. In West Oakland, federally funded housing was often integrated unit by unit, sometimes called "checkerboarded" (McBroome, 1993, p. 97). When integration mandates occurred on the white side of the color line, the outcome was more ambiguous. A particularly ugly struggle ensued in the City of Berkeley in 1943 over a large housing project in then mostly White West Berkeley which was eventually integrated. This "victory" was rapidly subsumed by Jim Crow as West Berkeley's Black population grew, drawing it into the same circle as nearby North and West Oakland. Overall, while the strong federal role in housing during World War II helped mitigate the worst crises of overcrowding and substandard housing for minorities, it did little to mitigate their residential concentration. Indeed, by 1950, after these integrated federal housing investments, 90% of Oakland's Black population resided in just 22% of its census tracts concentrated in West and North Oakland (Self, 2003, p. 51).

After the war, the schemes that had previously contained African Americans in the East Bay resumed in full force. These included real estate agents' refusal to deal with Blacks, restrictive housing covenants (which continued in practice after a 1948 Supreme Court ruling rendered them unenforceable), red-lining of mortgages in predominantly Black neighborhoods, and occupancy criteria that maintained segregation in publicly funded housing (McBroome, 1993).

Until as late as 1963, the Oakland Tribune published "White only" real estate listings (Self, 2003, pp. 164–165). This was the year in which California adopted the Rumford Fair Housing Act, named for its drafter, William Byron Rumford, the first African American from Northern California to serve in the legislature. The following year, however, real estate interests led a statewide campaign against it, denouncing it as "forced housing." Rather than simple repeal, they sought voter approval of Proposition 14, a constitutional amendment to ban anti-discrimination laws altogether (McBroome, 1993; Self, 2003). White voters in Southern Alameda County supported the proposition, dubbed the "segregation initiative" by Governor Brown, by high margins—70% in Newark and 80% in San Leandro – compared to almost no support in the inner East Bay (Self, 2003, p. 263). To the dismay of minority communities throughout California, it passed statewide by almost two to one. A Supreme Court ruling eventually overturned Proposition 14 (Self,

2003), but the episode highlighted the deep-rooted resistance to residential integration in the East Bay.<sup>6</sup>

Just as impotent as these early fair housing efforts were early efforts to overcome job discrimination. Notwithstanding Roosevelt's Fair Employment Act and its extensions, struggles over segregation in jobs and unions continued throughout the 1950s (McBroome, 1993). In 1951, Black workers won a notable labor campaign to open up the Key (streetcar) System's drivers' union, previously restricted to Whites. By the end of the decade, strong Democratic numbers in the California legislature led to the passage of the Fair Employment Practices Act (Self, 2003). Still, in the 1960s, minority workers were not so successful in fighting for a fair share of transportation-sector jobs. The construction of BART and the freeways were set to provide the largest number of jobs in the area since the New Deal. A group called "Justice on BART," or JOBART, fought for quotas for minority workers, job training, union integration, and funding for relocated households (Rodriguez, 1999). The rise of the Black Panther movement added force to these demands and BART instituted an affirmative action program in 1967. It had only mixed immediate effects, however: Black workers made up 20% of construction labor, but less than 2% of union apprentices and less than 5% of office workers during the first year of the program (Self, 2003), compared to their 15% and 34.5% shares of the 1970 populations of Alameda County and Oakland, respectively (MTC-ABAG, 2011).

Urban redevelopment and "renewal" early in the post-war period devastated the West and North Oakland African American communities as it set the stage for "White flight" to the suburbs. A great deal of urban renewal's impacts on West Oakland resulted from transportation projects (discussed in the final subsection of this part) to link the new suburbs to jobs in downtown San Francisco. Here, we look specifically at the immediate impacts on housing and jobs. Important integrated housing projects built during World War II were demolished during the 1950s, displacing thousands of families (Rhomberg, 2004). Lending discrimination and low wages meant many homes and neighborhoods were in disrepair and values were depressed. When removal came, "fair market value" compensation meant many families could not afford similar homes in other, even close by, neighborhoods (Rhomberg, 2004).

In 1954, the Oakland Citizens Committee for Urban Renewal (OCCUR) proposed a 200-acre project in West Oakland, which replaced needed housing with mostly industrial sites, demolishing more than 300 building, and displacing more than 9,000 people (Self, 2003). West Oakland residents were not represented on OCCUR. The project proceeded even after a legal challenge that extended all the way to the Supreme Court. Later, residents successfully fought off another similar project and converted it into a rehabilitation project, preserving the neighborhood (Self, 2003).

The national pattern of "White flight" and the suburbanization of investments, jobs, and infrastructure also played out in the East Bay during the post-war period (Norman,

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<sup>6</sup>The deep resistance to residential integration at the national level was responsible for the fact that the federal Fair Housing Act could not be passed until four years after the adoption of the Civil Rights Act of 1964. Title VIII's adoption in 1968 came in the wake of Martin Luther King's assassination and has remained unequal to the task of uprooting residential segregation ever since (Hannah-Jones, 2012)

2006; Self, 2003). Bay-Area historian, Robert O. Self (2003, p. 256) describes these processes in the East Bay:

The suburban “white noose”<sup>7</sup> surrounding the urban Black community stood metaphorically for metropolitan inequality and segregation. Unwelcome in South County [Southern Alameda County] suburbs, African-Americans in Oakland were denied access to the region’s fastest growing employment and housing markets ...

Traditionally, Oakland was dependent on peripheral plants from national firms like GM, Dow Chemical, and Shell Oil for its higher paying union jobs. As the suburbs of southern Alameda and neighboring Contra Costa County were able to leverage new (federally financed) transportation facilities, cheap land, and expanding tax bases, and as older existing factories in Oakland became less efficient, many of these plants were closed during the 1960s. Suburban land costs were around 1/20th those in central Oakland, and Oakland’s share of Alameda County’s manufacturing jobs declined from 50% in the late 1950s to 30% in 1970 (Self, 2003). By the end of the 1960s, 90% of the transportation equipment production jobs in Alameda County were found in its southern towns (mostly out of reach of AC Transit). Fruitvale lost many of its canneries and factories during this period. What jobs remained were increasingly in the service sector, much of which was still closed to minorities. This process is summarized by Self (2003, p. 171):

Those groups of workers most vulnerable to cycles of unemployment and to various forms of discrimination ... found the regional dispersal of jobs unaccommodating. These workers overwhelmingly remained in Oakland. For them, municipal boundaries were theoretically porous to movement, but the social, familial, institutional and ultimately linguistic networks through which most people acquired jobs did not extend broadly across space.

This history brings texture to how race and space played out in housing and job discrimination, and specifically how segregation, which meant lost opportunities for wealth accumulation for many of the region’s African Americans, became more deeply entrenched in the physical space of the East Bay even as anti-discrimination measures began to be felt. By the end of this period, in 1970, while Blacks were 34.5% of Oakland’s population, they made up only 5.1% of the population of Alameda County outside of Oakland, and only 7.5% of Contra Costa County (mostly in the formed shipyard cities of Richmond and Pittsburg) (Hansen 1996, p. 376; MTC-ABAG, 2011). We next look to the particular role transportation played in these processes, first in how services became less effective in meeting the mobility needs of the inner East Bay communities and then how the infrastructure to meet the mobility needs of the suburbs affected these neighborhoods.

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<sup>7</sup>The term “white noose” was apparently coined by former Michigan Governor and HUD Secretary George Romney, who described America’s housing patterns in a confidential 1968 memo as a “high-income white noose” around the black inner city (Hannah-Jones, 2012).

### *Transportation Infrastructure Divides Neighborhoods*

For nearly a century before urban renewal, proximity to transportation infrastructure such as the Oakland port and railroad terminals had been an asset to the African American communities. There, the open jobs in transportation and manufacturing allowed African Americans to prosper. However, as the size and extent of infrastructure exploded with the New Deal, World War II, and post-war federal urban intervention, freeways, port facilities, warehousing, and other industries encroached into and divided nearby neighborhoods. A common component of post-war urban renewal was transportation infrastructure such as highways and mass transit systems, with often devastating effects on African American communities (Massey, 1990; Mohl, 1993). The East Bay freeways and BART, designed and constructed during this period, produced many of the typical aspects of neighborhood displacement and blight. In 1958, the Oakland City Council, void of any representation of the 22.8% of its population which was African American approved all the highway alignments through West Oakland (MTC-ABAG, 2011; Self, 2003).

The centrality of West Oakland, which had enjoyed good transit service from regional rail and local streetcar lines (as we discuss below), turned into a liability as the new highways crisscrossed the area, walling off, and casting shadows across neighborhoods and creating environmental nuisances. The Nimitz freeway (Interstate 880), a link to South Alameda County, crossed West Oakland along Cypress Street (aka the Cypress Freeway), a main street of the neighborhood (Figure 2) and “divided the neighborhood into oddly shaped units and isolated large areas from each other and downtown Oakland”



**Fig. 2.** Map of West Oakland, noting the regional transportation facilities impacting it.  
 Source: Google Earth (10/1/2009). Oakland. 37° 48' 40.91" N 122° 17' 23.09" W, Eye Alt 18,716 feet. Telemetrics 2011.

(Self, 2003, pp. 150–151). Another new freeway, Interstate 980, heading north toward the new “Grove-Shafter” freeway (State Route 24) connection to the suburbs of east Alameda and Contra-Costa, ran along the other side of the neighborhood, severing West Oakland from Downtown Oakland. State Route 24 was placed right through the African American neighborhoods of North Oakland centered on the Grove Street district (now Martin Luther King Boulevard). According to Madison Harvey, co-founder of the East Bay Negro Historical Society, “The freeway... took out a huge section of Black Oakland. It pretty well wiped out Grove Street...” (Norman, 2006, p. 108). Historian of the area Jeff Norman (2006, p. 98) elaborates:

... Grove Street continued to persist as the racial divide east of which African Americans were generally not welcome. In the 1960s, as the demolition of homes for the Grove-Shafter freeway right of way and the resulting drop in property values knocked the wind out of the Grove Street business district, it appeared as if the freeway would reinforce Grove Street as a racial “redline” ... no longer defined by discriminatory lending and real estate practices, but by the new freeway ...

Rivaling the problems of displacement and neighborhood impacts was the opaque process by which the freeway was planned. There were limited requirements for public deliberation at this time, even for Whites. According to one former North Oakland resident, “There was going to be a public hearing on a proposed freeway through North Oakland ... It wasn’t as I recall, ‘Would you like it, would you not like it?’ It simply was going to be built .... We naively thought they were going to ask our opinion on this, but they didn’t, as we discovered” (Norman 2006, pp. 81–82).

On top of the freeway impacts, BART added additional burdens on the West Oakland community. The above-ground portion of BART through West Oakland razed what remained of once vital African American commercial activity along 7th Street, including jazz clubs, barber shops, grocery stores, and restaurants. In the words of a local resident: “When they put BART above ground, that made a dump out of [7th Street]. Nobody wanted to go down there.” (Self, 2003, p. 159). Acres of parking covered what was once prime location in the West Oakland community. Today, a daily barrage of mostly suburban commuters fills the parking lot to ride BART one stop into downtown San Francisco and avoid its steep parking fees.

### *Struggles Over Mobility and Transportation Services*

As far back as the 1860s access to transportation was a civil rights issue in the Bay Area, when African Americans won the right through several lawsuits to ride the streetcars with White riders (McBroome, 1993). Since well before the turn of the century, the inner East Bay enjoyed good public transit service provided by the Key System (electric streetcars and inter-urban rail network) and several other inter-urban rail services. Together, they created a dense network of services. “Transbay” connections (between the East Bay and San Francisco) made initially by ferry were upgraded to train service across the San Francisco—Oakland Bay Bridge starting in 1936. However, the Key System met the same fate as many urban rail systems throughout the United

States in the 1940s and 1950s, when streetcars were converted to buses and the transbay rail connection was removed.

The process of conversion, moreover, activated urban-suburban fault lines: in 1959, an initial vote on a bond measure to municipalize the Key System failed due to opposition in some suburban areas to being included in the new bus system (AC Transit, 1959; Adler, 1987). In 1960, voters across a smaller geography approved a \$124 Million (2010 dollars) bond that replaced the Key System with the publicly managed AC Transit bus system.

The conversion to buses meant a worsening of service and connections for urban transit riders (Self, 2003). In West Oakland, the loss of streetcars also accelerated the demise of the local economy as shops became less accessible. In the eyes of one resident, “When the red trains [Key System] were taken off 7th Street, that just devastated the area... people couldn’t get there easily and the businesses closed down, the streets looked shabby” (Self, 2003, p. 157). Service continued to worsen as service levels failed to keep pace with the geographic expansion of the service district. Originally, AC Transit’s district extended from Hayward in the south to Richmond in the north with approximately 850 miles of bus routes (AC Transit, 2011). In about 1970, the district was extended south to Fremont and Newark; a few years later, several cities in Contra Costa County began contracting with AC Transit to provide service (mostly to their BART stations). By 1976, the network had nearly tripled in terms of route miles (to about 2,200), but service levels (measured in vehicle-miles) grew by only about 50%, as service was spread over a larger network (AC Transit, 2011). In the mid-1980s, AC Transit service would stagnate and decline again as competition for resources between AC Transit and BART grew.

Meanwhile, two years after the creation of AC Transit, voters passed a \$5.95 Billion (2010 dollars) bond to build BART. The heavy rail system opened for intra-East Bay service in 1972, with transbay service coming on line 1974 and expansions (an issue of contention in the Darenburg suit, discussed in Part IV) still ongoing. In a 2001 interview, Larry Dahms, the former BART general manager and later MTC’s executive director, agreed that “one of the attributes of BART was that it was, in a sense, bringing the middle class back into transit” (MTC, 2001). But the middle class that rode the Key System streetcars a generation earlier lived primarily along the urban corridors of the East Bay. In the aftermath of White flight, these middle-class residents were now sprawled across suburban developments in South Alameda County and East Contra Costa, and the transit to which they “returned” was nearly as segregated as the suburban communities in which they now lived.

BART was designed in the 1950s and 1960s as a link between the new suburbs and San Francisco, with a spread-out network, radial design, and long distances between stations. Later studies, during the 1970s, demonstrated that its operation was consistent with its intended orientation toward suburban commuting. BART was not designed to serve the mobility needs of minorities, and these later studies in fact showed that it was not meeting them. In one early evaluation of BART’s impact on public transit use and urban development, Professor Mel Webber of University of California at Berkeley observed: “Half of all BART’s transbay passengers [with destinations in San Francisco] formerly rode the bus. In contrast, those using local buses seem not to find BART as attractive, probably because of the wide station spacing. Indeed, even during the two-month [1974 AC-Transit] strike, only 10 per cent of the East Bay bus riders used BART instead...” (Webber, 1976, p. 16). He also noted that, “By being heavily subsidized and

charging fares well under its actual costs, BART has appreciably reduced monetary commuting expenses for outlying suburbanites who work in the central cities. Thus, rather than deterring suburban sprawl, BART may instead be encouraging it..." (Webber, 1976, p. 22).

An evaluation of BART commissioned by MTC in 1976 reported that low-income residents use BART less than is implied by their share of the area-wide population because, in part, low-income groups tend to work in locations that are not as well served by BART as the central city workplaces of many high-income groups (Ellis and Sherrett, 1976).

A subsequent MTC study of the impacts of BART focused on low-income and minority population reached similar conclusions (Frye et al., 1977). It noted that BART made little impact on the mobility of ethnic minority residents because it does not go where they need to go—specifically places away from central business districts. It found that BART's design does not lend itself to the local travel, blue-collar employment, and inner city travel needs of minorities: "BART was not designed to meet these types of travel needs and it should not be expected to serve them effectively" (Frye et al., 1977, page unknown).

On the one hand, new transportation systems attempted to connect the urban and suburban extremes of the ever-expanding Bay Area (though improved mobility for minorities could not overcome overt discrimination in jobs and housing). On the other hand, it displaced residents and carved up neighborhoods, further reinforcing the segregation of the city's real estate and job markets. We explore in the next section how an era of expanded civil rights and environmental review requirements affected, and failed to affect, these trajectories.

### PART III: CONTEMPORARY STRUGGLES FOR TRANSPORTATION JUSTICE

The civil rights and environmental movements of the 1950s and 1960s gave birth to legislation which altered the rules for urban planning, ending the *de jure* supports for segregation, while also creating opportunities for the formal participation of minority communities in regional planning and project evaluation. These new standards are found in the NEPA of 1969 and in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et seq.) and were later integrated into transportation reauthorization statutes such as the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and federal guidance based on these statutes. New requirements affected how MPOs were to carry out their planning, and evaluations of environmental and social impacts now required agencies to create environmental impact statements (EISs) based on public deliberation for all major infrastructure projects and plans. In addition to improved participation processes, substantive requirements and prohibitions (such as the prohibition on discrimination) govern the distribution of the outcomes of MPO activities, such as transit service levels.

The 1980s environmental justice movement, building on the earlier civil rights and environmental movement, brought attention to the links between pollution of various types and the location of minority and low-income communities. In response to this growing awareness, President Clinton signed Executive Order 12898 on Environmental Justice in 1994 (Clinton, 1994), requiring federal agencies to identify and address disproportionate adverse health and environmental impacts on low-income and minority populations. The U.S. Department of Transportation (1997) and its operating administrations, which oversee

MPOs and state transportation agencies, issued orders on how to implement the Executive Order (Federal Highway Administration, 1998; Federal Highway Administration and Federal Transit Administration, 1999). On top of NEPA and Title VI requirements, MPOs were now expected to monitor their activities “to ensure that social impacts to communities and people are recognized early and continually ... from early planning through implementation” (FHWA, 1998, Par. 3(a)), and the required “equity analyses,” expanding the opportunities for minority communities to participate in the planning process.

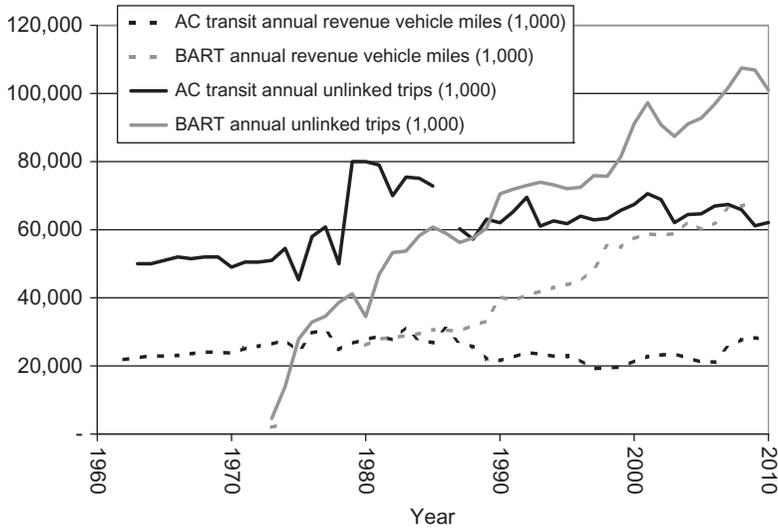
It would be some time before these new rules had significant impacts on the practice of regional transportation planning in the Bay Area. MTC was created by statute in 1970 as the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area (MTC, 2012). Fourteen of its sixteen voting members are appointed directly by local elected officials in the nine counties, in a manner that is heavily weighted toward suburban representation. For instance, suburban Napa County, with one commissioner for a population of less than 150,000, has about five times the per capita representation of Alameda County, which is allotted two commissioners for a population of over 1.5 million.<sup>8</sup> More generally, those suburban counties (Napa, Marin, Solano, and Sonoma) with densities below 1,000 persons per square mile had 3.11 votes per million residents, compared to much denser, more urban, counties with only 1.71 votes per million residents. Today, only two of MTC’s 16 voting members are minorities (MTC, 2012), following a national trend of unrepresentative MPOs (Sanchez, 2006). By comparison, the 2000 Census showed nearly 42% of the Bay Area residents were non-White (MTC-ABAG, 2011), a figure that jumped to 47.5% in 2010.

From its earliest days, MTC played a role in the growing dichotomy between urban transit services and those geared for regional expansion, and especially between AC Transit and BART. That dichotomy was reinforced by legislation like Assembly Bill 1107, which MTC brokered in 1977, instituting a three-county 1/2-cent sales tax for transportation; 75% of the proceeds go to BART, with the remainder divided between the (significantly larger) San Francisco MUNI system and AC Transit. At the time this bill was enacted, AC Transit served about two times the daily ridership of BART, and it would be almost 15 years before BART’s ridership exceeded AC Transit’s (see Figure 3). Funding disparities accumulated: adding initial bonds to other subsidies from 1978 to 2010, BART has received almost three times more capital and operating subsidies than AC Transit (Table 1).

Table 2 summarizes the demographics of AC Transit and BART’s riderships and of the populations in their service areas. We provide data from around 2000, prior to the filing of the *Darensburg* suit; disparities were likely even greater when BART opened in 1972. AC Transit users (21% White) reflected the Oakland and West Oakland populations, while BART users were wealthier and 60% White. Table 2 also shows the differences between the residents living in central West Oakland and areas closer to the West Oakland BART station, and those boarding at the station. Notably, despite its location in a community that is 12.5% White, fully 40% of BART boardings at West Oakland station are White riders.

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<sup>8</sup>This will soon change slightly, under California Assembly Bill 57, which will give San Jose and Oakland their own seats on the commission in 2013. Even with these modifications, the voting power of the three largest counties in the region will still be about half that of the three smallest (Public Advocates, 2012). The largest three (Santa Clara, Alameda, and Contra Costa Counties), which include the cities of San Jose, Oakland, and Richmond, are home to 66% of the region’s minority residents (MTC-ABAG, 2011).



**Fig. 3.** Evolution of service (measured as “revenue vehicle miles”) and ridership (measured as “unlinked trips”) for BART and AC Transit.  
*Sources:* U.S. DOT Section 15 reports, 1979–1990; National Transit Database, 2011, Historical Data Files: Service Data and Operating Expenses; AC Transit (2011); BART (2011).

**TABLE 1.** FINANCIAL SUPPORT FOR AC TRANSIT AND BART (2010 DOLLARS, BILLIONS)

	Additional capital and operating support, 1978 to 2010 <sup>A</sup>				
	Initial bonds	Federal capital grants	State capital grants	Local capital grants	Operating subsidies <sup>B</sup>
AC transit	0.124 <sup>C</sup>	0.66	0.27	0.13	6.0
BART	7.45 <sup>D</sup>	2.8	1.5	1.5	7.5

*Notes:* A: Information prior to 1978 was unavailable.  
 B: Calculated as total operating expenses minus fares.  
*Source:* Estimated by authors based on data from AC Transit (2011); Bart (2011), and the State of California Controller “Summary of Statements of Revenues and Expenses: Transit Operators and Non-Transit Claimants Annual Report to State Controller,” Years 1978 to 2010. [http://www.sco.ca.gov/ard\\_locrep\\_transit.html](http://www.sco.ca.gov/ard_locrep_transit.html).  
 C: Passed in 1959.  
 D: Passed in 1962.

As discussed previously, BART was not designed to restore the service and connectivity of the Key System, but instead to connect suburban professionals to downtown office jobs. Since its opening, BART service levels continuously grew, with station expansion and headway reductions, while AC Transit service has stagnated at best (Figure 3). Meanwhile, the suburbanization of the region’s jobs caused a growing share, especially low-wage and blue-collar jobs, to move outside the AC Transit service area (Raphael, 1998). The BART evaluations showed that even when those job centers are accessible by

**TABLE 2. DEMOGRAPHICS OF AC TRANSIT AND BART RIDERS AND SURROUNDING COMMUNITIES**

	BART riders <sup>B</sup>				General population <sup>C</sup>				
	Riders boarding at West Oakland station	All BART	Intra-East Bay BART	Four-County BART Service Area <sup>D</sup>	Alameda County	Contra Costa County	City of Oakland	Census Tract 4022 (West Oakland -BART station)	Census Tract 4024 (West Oakland -Central Area)
Share of households with incomes below \$25k (%)	18.2	19.9	28.5	18.0	21.2	16.2	32.1	47.9	63.2
Share of households with incomes above \$75k (%)	35.0	30.0	20.0	48.0	35.6	41.7	23.8	9.2	9.7
Share of households or riders White (%)	40.0	60.0	52.0	44.0	49.0	65.5	31.3	12.5	6.6
Share of households or riders with vehicles available (%) <sup>E</sup>	75.0	57.0	52.0	52.0	89.8	94.5	82.2	51.7	56.5

Notes: A: Source: AC Transit (2002) On Board Passenger Survey: System-wide Results <http://www.actransit.org/planning-focus/reports/reports-3/>

B: Source: Corey, Canapary, and Galanis (1999) Final Report, BART Station Profile Study, 1999.

C: 2000 Census.

D: These include: San Mateo (where BART expanded service to SFO airport), San Francisco, Contra Costa, and Alameda Counties.

E: Transit riders were asked if a vehicle was available to them for their trips. Census data report the share of households with at least one vehicle, which may overstate vehicle availability for each worker.

BART, the cost is prohibitive for many low-income workers. The lack of connecting bus service in the low-density suburbs, and of direct bus service from Oakland to suburban job centers to the south and east, mean that these communities are isolated not only with respect to their local travel needs but also in their access to high-opportunity communities, as well.

The potential of the Civil Rights Act to confront larger regional mobility disparities was demonstrated in 1996, when the Los Angeles Bus Riders' Union settled a class action civil rights lawsuit, *Labor/Community Strategy Center et al. v. Los Angeles County MTA*, Case No. CV 94-5936 TJH [McxI] (C.D. Cal.), with the Los Angeles Metropolitan Transportation Authority (MTA) (Grengs, 2002; Mann, 2004). Bus riders there alleged that MTA's underfunding of the bus system that mostly served minority riders, in favor of rail expansion policies, violated Title VI. In response to the consent decree, the bus riders won in Los Angeles, and to the new Environmental Justice Executive Order, Bay Area civil rights and EJ advocates urged MTC to make more detailed analyses of the distribution of the mobility benefits of its regional transportation plan (RTP), and to redistribute funding as needed to correct inequities (Sanchez, 2008).

MTC refused, and instead performed an equity analysis of its 1998 RTP that used a transportation forecasting model to compare outcomes between "Disadvantaged" and "Not Disadvantaged" communities, distinguished by income level (Sanchez, 2008). MTC's analysis found that, in the year 2020, the RTP would improve access to jobs and other essential destinations for disadvantaged communities as much as it would for other communities; significantly, it did not consider whether existing gaps in accessibility would be closed. Several advocacy organizations representing disadvantaged communities expressed concerns at not being involved in the analysis, and with the methodology the analysis utilized (Sanchez, 2008). Although MTC, pursuant to a federal "corrective action," invited advocates to assist in the analysis for its next RTP, in 2001, advocates were not satisfied with the new analysis which, as in 1998, concluded the RTP was fair on similar grounds (Cohen and Hobson, 2004; Sanchez, 2008). One major problem was that the forecasting model grouped all public transit systems together, making it impossible to understand whether BART or bus riders benefited from transit investments. MTC's analysis of its next RTP in 2005 did not improve significantly on the 2001 analysis, and also concluded that the 2005 RTP was fair. As before, the analysis continued to aggregate rail and bus in its forecasting and did not reflect bus service cuts, among many other issues (Sanchez, 2008, pp. 47-48).<sup>9</sup> Not only did the analysis fall short, but

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<sup>9</sup>Advocates' critiques included the following points (Sanchez, 2008, pp. 47-48): (1) MTC's travel model did not separate out bus and rail and therefore could not appreciate differences of affordability between the two. (2) MTC had not obtained the requested demographic data on the number of minority and low-income riders on different transit systems. (3) MTC's model assumed that bus service will not be cut, regardless of whether the RTP indicated that an operator would have operating shortfalls or had a history of service cuts. AC Transit has a long history of service cuts, often caused by MTC funding shortfalls. Incidentally, the analysis used a base year of 2000, meaning it could not reflect any of the recently preceding service cuts for AC Transit. (4) MTC's model used underlying assumptions that population and jobs increase over the 25-year period in nearly all neighborhoods. Thus, accessibility to jobs should increase for everyone even without any transportation investments, meaning that the analysis was largely trivial. (5) MTC determined travel paths by finding the "one best path" in terms of minimum travel time without taking into account the prices. So, for many public transit trips, the analysis assumed most people would take BART, even though it is typically more expensive than AC Transit.

the process also left many advocates fatigued and disappointed. Cohen and Hobson (2004, pp. 114–115) recount their experiences engaging in the first, 2001, MTC equity analysis:

In retrospect, many [advisory committee] members felt it would have been better to focus on more direct methods of influencing funding decisions rather than trying to involve large numbers of activists in a mostly technical discussion. “The time I spent [working with MTC] was worse than a waste of time,” reflects Reverend Andre Shumake ... “Not only did they not accept many suggestions and recommendations from our diverse group, but now MTC can say they consulted the community about environmental justice.”

Other MTC investment policies were scrutinized by advocates (Public Advocates, 2009b). Analysis showed that MTC actively filled capital maintenance shortfalls (such as rail car replacement), primarily benefiting rail systems, while leaving unfunded operating shortfalls resulting in bus service cuts and fare hikes (Rubin, 2008). They also showed that MTC’s 2001 “Regional Transit Expansion Program” (RTEP) directed 94% of some \$13 billion funds to rail expansion, leaving little for bus expansion (Rubin, 2008). The program’s requirements for demonstrating congestion relief were applied more rigorously to bus proposals while it was assumed rail projects brought such relief; as MTC’s deputy director later testified at the Darensburg trial, “[t]he degree to which [congestion reduction] happens [due to rail projects], who knows” (Public Advocates, 2009b, p. 26). Moreover, projects to expand local (non-commuter) bus services were not eligible for the funding program at all. In the initial phase of RTEP, 14 rail expansion and four bus expansion projects were proposed. The rail projects cost more than \$10 billion and all were fully funded. In contrast, only three of the four bus projects were approved with only 19% of their requested funding (Public Advocates, 2009b, p. 30). While many of the rail projects were more expensive per new rider than similar bus projects, their congestion impacts were never verified.

In 2001, MTC also conducted its “Lifeline Transportation” study, which identified gaps in transit services critical to low-income and transit-dependent communities. MTC estimated it would cost around \$2.1 billion over the 25-year horizon of the RTP to fill the gaps it identified (Public Advocates, 2009b, p. 13). While repeatedly stating that its Lifeline and RTEP programs were “equally important,” MTC’s 2001 RTP allocated no funding to Lifeline, instead claiming “other studies ... were needed” (Public Advocates, 2009a, p. 14). Three years later, in its 2005 RTP, MTC provided just 10% of the needed funding.

Mirroring the continued segregation evident in the transportation system ridership demographics shown in Table 2, it became increasingly evident that many of the core issues of regional segregation and barriers to opportunity, far from being overcome, were being more deeply entrenched. Mobility challenges in the Bay Area continued to affect opportunities for minority employment into the 1980s and 1990s (Cervero et al., 1999; Raphael, 1998), and a study of access to manufacturing jobs in 2000 showed that Blacks remained significantly disadvantaged (Golub et al., 2013). Regional segregation remained between 1970 and 1990; as the Black population grew to 43.9% in Alameda County, up from 34.5% in 1970, it remained largely confined to the City of Oakland. Outside

Oakland, Alameda County's Black population rose to only 7.3% of the population in 1990, from 5.1% in 1970, and in Contra Costa County to 9.2%, from 7.5% in 1970 (Hansen, 1996, p. 376; MTC-ABAG, 2011).

### *Civil Rights Lawsuit*

We now return to the *Darensburg* lawsuit mentioned at the outset. A group of minority bus riders and their allies filed the case against MTC in 2005 as a federal civil rights class action lawsuit, *Darensburg et al. v. Metropolitan Transportation Commission*, Case No. C-05-1597-EDL (N.D. Cal.). They asserted that declining levels of service for bus riders were caused by MTC's planning and funding policies, among them the RTEP, that prioritized the expansion of rail service for riders who were more affluent and White (Public Advocates, 2009a). Plaintiffs noted the significant demographic differences between AC Transit riders and BART and other rail riders (see Table 2) and the disparities in the subsidy per rider and in the change in service levels in the last two decades (Public Advocates, 2009a).

In response to the above, MTC asserted that it was not responsible for the service levels of the independently governed transit systems operating in its region. The District Court disagreed, ruling that "AC Transit has been forced to cut urban bus service to the detriment of the Plaintiff Class in the past due to funding shortfalls..." within the control of MTC (Public Advocates, 2009a, p. 57). The District Court did not allow the plaintiffs to present evidence of intentional discrimination, and the case proceeded to trial solely on the claim that MTC's practices had a discriminatory effect. After trial, agreeing with the plaintiffs that the RTEP had a discriminatory impact on minority bus riders, the court stated that "MTC allocates more funding to rail projects than to bus projects, resulting in bus projects proposed by AC Transit being excluded from those listed in Resolution 3434."

This *prima facie* finding placed the burden on MTC to prove a substantial justification for the discriminatory impact, a burden that the court ruled MTC had met:

MTC presented evidence that in formulating the [RTEP], it relies in large part on the advice of the Partnership Board, [an external advisory body] which consists of representatives of all the region's transit operators, including AC Transit, its [county transportation agencies], its Air Quality Districts, its cities and counties and the Federal Transit Administration ("FTA") .... Plaintiffs argued that MTC's reliance on the supposed consensus of the Partnership Board to make its decisions does not constitute a substantial legitimate justification because the consensus is not unanimous and operators like AC Transit feel forced to acquiesce or risk offending a key source of funding. Although the Partnership Board is advisory only and does not require unanimity in its decisions ..., and the Court recognizes that operators do not always feel at complete liberty to risk giving offense to MTC, on balance the evidence showed that MTC's reliance on the Board to help set policy is substantially justified. (Public Advocates, 2009b, p. 2)

The Plaintiffs appealed this issue to the Ninth Circuit Court of Appeals, which affirmed in 2011. The appeals court ruled that there was no disparate impact that required

justification in the first place (Ninth Circuit Court of Appeals, 2011). In the view of Judge Noonan, who added a concurring opinion, in the “Bay Area where social change has been fostered by liberal political attitudes, and a culture of tolerance ... [a]n individual bigot may be found, perhaps even a pocket of racists. The notion of a Bay Area board bent on racist goals is a specter that only desperate litigation could entertain” (Ninth Circuit Court of Appeals, 2011, p. 2574).

#### PART IV: DISCUSSION

The significant changes in development processes—from the one driven by overt discrimination to the one based on a rationalized process of regional decision-making—might have been expected to yield significant changes in outcomes and opportunities for African American communities. Expressing this expectation, Judge Noonan’s concurring comment rests on the implicit assumption that discrimination must be propped up by the legal and attitudinal supports of racism and should crumble when those supports are removed. That assumption overlooks the persistence of the deep physical etching of race on the landscape and built environment.

The brief historical record assembled here documents the present-day effects of that persistence. The new decision-making rubric did result in some specific challenges to unfair project impacts, as in cases mentioned in endnote 1, or in the Federal Transit Administration’s withdrawal of \$70 million in federal funds MTC had allocated to a BART expansion project for which the required analysis of social equity impacts had not been conducted (Public Advocates, 2009c). At the regional scale, however, there was not a clear departure from the earlier racialized development process. In both the period before 1970 and in the subsequent period through the filing of the *Darensburg* suit in 2005, the physical geography of segregation and exclusion, and its harmful impacts on minority communities, was maintained and re-created in three not always distinct spheres: (1) the ability of communities to influence outcomes through public participation and representation in decision-making, (2) the development of infrastructure and the management of its local impacts, and (3) the distribution of mobility by means of the provision of public transportation services. In each of these spheres, the record showed little improvement. In each, it is crucial that race-neutral decision-making processes failed in any meaningful way to dismantle the racialized structure of physical space, instead tending to build on the template it provided.

##### *Participation and Representation*

Decades of blight and disinvestment induced by public and private policies were enough to stigmatize West Oakland and its African American residents as worthy of port expansions, housing demolitions, and infrastructure alignments, but not of the mobility improvements needed to access a fair share of the region’s opportunity. At issue throughout was its struggle for representation both politically, in key decision-making forums, and symbolically, as a place where investments in housing rehabilitations make sense over demolition or conversion to other uses.

Our analysis of the distribution of access to participation shows that earlier planning processes minimized public participation in general, and even where limited participation

was allowed, minority voices were silenced. The new regime of rules and procedures from NEPA, ISTEA, the Civil Rights Act, and the EJ Executive Order have greatly increased the opportunities for public information and formal participation, but their effects on actual outcomes are mixed. The complete exclusion of minority voices from the table is no longer an issue, but the power of those voices to influence the outcomes of decision-making remains as compromised as ever. The governance structure that dilutes the voting power of urban minorities on MTC's board capitalizes on and reproduces spatial concentrations of minority population and separation of White population.

This stark inequality of representation, coupled with the dearth of minorities on the MTC board itself, is no doubt central to the repeated frustration that communities of color have had in their efforts to elevate their concerns in the regional planning process. Examples in this case include the continuous disappointment with the RTP equity analyses, including MTC's repeated refusal since 1998 to separate rail and bus performance and to take into account existing inequities, among other things. Without the information they needed to engage meaningfully in decision-making, the formal opportunity to participate provided by the new legal framework did not translate into an equal voice in decision-making. The differences between the evaluation process for bus and rail projects in the RTEP also showed a bias and lack of transparency. Bus projects were clearly unwelcome and were evaluated with much stricter requirements.

#### *Impacts of Transportation Infrastructure*

Our analysis of the distribution of the burdens of transportation infrastructure investments showed some improvements between the two eras. During the earlier period, the local impacts of transportation developments were often devastating: the years of construction-induced blight and the permanent neighborhood disfigurements from freeways, housing removal and displacement, pollution, noise, barrier effects, and parking lots. While requirements for project evaluation of environmental impacts have changed in the contemporary era and have the potential to mitigate the worst of localized impacts, many of the burdens from the previous era are long-lasting and will remain for decades—burdens which are proven to have real measurable impacts on the health and opportunities of these communities. Where these burdens remain today unabated, they simply reproduce that racist past.

#### *Core Versus Suburban Transit Services*

Our analysis of the unequal distribution of the mobility benefits of service investments shows a change only for the worse during the new era. The earlier suburban orientation of transportation infrastructure development is difficult to separate from the process of White flight in the East Bay: BART and the freeway system not only facilitated regional segregation, but had very different impacts on suburban and core urban communities. Among other things, BART increased land values in the suburbs, while contributing to blight in places like West Oakland. That this infrastructure did little to accommodate core urban populations and their needs should not be very surprising during the earlier phases of overt discrimination.

The shift to a new decision-making rubric did nothing to address these impacts of the built environment and, in fact, similar practices continue under that new rubric. Concerns over congestion management and “regional consensus” now drive transportation decision-making, again moving complex social processes into the seemingly neutral spaces of technical analysis and processes. While the court found MTC’s RTEP to have discriminatory effects, MTC’s concerns over “consensus” and its untested congestion management theories were deemed to have overriding importance.

Good public transportation services in the earlier era were perhaps one benefit of African American communities’ concentrations in the inner East Bay. Divestments from those services, starting with the decline of the Key System and the limited support for AC Transit compared to that for BART, added further insult to the injury of urban divestment, urban renewal, and job and housing discrimination. African American communities in the East Bay were, in effect, imprisoned through a series of public and private policies which, on the one hand, immobilized them and, on the other hand, imposed on them the burden of others’ mobility by running regional transportation infrastructure through their communities.

In the new era, struggles over core local transit service for urban communities, still overwhelmingly minority and low income, remains basically unchanged since the decline of the Key System. Indeed, more recent studies of the Bay Area show that mobility challenges still affect minority residents’ employment outcomes (but also that racial discrimination in employment is still detectable) (Cervero et al., 1999; Raphael, 1998). The struggles over regional finance policy between AC Transit and BART and through the RTEP and Lifeline echo the post-war bifurcation of investments between high-performance suburban transportation systems and the core urban transit system.

## CONCLUSIONS

The enduring effects of overt forces of discrimination and segregation upon the geography of the East Bay are evident in policies and practices now administered by race-neutral systems of regional management. While these current discriminatory outcomes are not “intentional” in the narrow sense understood by the Equal Protection jurisprudence of the courts, neither are they accidental. Deep grooves in the built environment, the spatial remains of a quasi-glacial history of racialized development, continue to serve as tracks for ongoing racial harms in the “post-racial” administration of planning and development.

The *Darensburg* case illustrates the ease with which the physical traces of that history perpetuate discrimination and segregation—what has sometimes been called “racism without racists.” Although MTC arguably acted with no desire to harm African Americans, it built its rail expansion program on a deeply racialized and segregated map. Proceeding under the race-neutral rubric of “congestion management” seemed natural to the agency and was deemed a substantial and legitimate justification by the courts. An environmental racism lens, however, reveals etched upon the physical geography of the region the remains of a history of discrimination. Left unacknowledged, that racial geography continues to work its harms in shifting contexts, from Jim Crow to contemporary concerns about regional connectivity.

The environmental and civil rights movements did transform the planning process into one that is expected to be more open and responsive. Reflecting on the early history, it would have been impossible to imagine in 1920 or even 1960 that minority communities could make policy recommendations to MTC. The potential of these newer procedures for assisting community struggles, however, remains strictly limited (Holifield, 2004). Holifield's critique is borne out in the case of MTC, where minority communities came up against the limits of both participation and the needed attention to race-equity impacts in the regional planning process.

These recent struggles reflect recurring tensions that have surfaced throughout the 150-year period: the tension between mobility, regional expansion, and decentralization facilitated by freeway and regional rail infrastructure, on the one hand, and the preservation of services and neighborhoods in the urban core, on the other hand. While *de jure* housing desegregation has ended, the promise of the Fair Housing Act to uproot segregation and end exclusionary zoning has yet to be realized (Hannah-Jones, 2012). The region remains segregated and transportation decisions continue to reinforce that segregation. The corralling of equity issues into the supposedly neutral spaces of technical analysis and measurement serves artificially to sever current struggles from the present effects of past actions that created a racialized geography.

The court's conclusion in general and Judge Noonan's concurrence in particular reflect an assumption that the effects of past discrimination will disappear if not propped up by ongoing discrimination. It ignores the more profound claims made by injured communities who correctly tie current actions back to their racist history (e.g. Holifield, 2004) and, above all, ignores the durability of past discrimination that is embedded in the physical medium of regional geography.

We find here a reconfiguration of the racial state. In the past, it employed overt discrimination to provide the socially "acceptable" (i.e. segregated) environment for regional growth. Now, the state convenes a set of rights, procedures, and forums that are formally inclusive, but overlooks the power of persistent historical channels to guide racially harmful actions. Until the legacy of the past is acknowledged and redressed, not through laws and words, but in the physicality of its urban space, race-neutral processes will likely continue to be superimposed on an inherited racialized geography and thus to yield racially discriminatory outcomes.

Looking forward, we can take some important lessons from this case study of environmental racism. California's regions are currently tasked with meeting carbon emissions targets under Senate Bill 375. In response to the above, MTC and other MPOs are hoping to "reurbanize" the middle class by planning massive "transit oriented development" housing growth near transit nodes in a set of "Priority Development Areas" that coincide very closely with minority population centers (MTC-ABAG, 2012). This plan—a "White flight" in reverse – has sparked grave concern over the displacement of minority residents (Tepperman-Gelfant, 2011). Whether displacement will be avoided depends in large part on whether the physical landscape of segregation is acknowledged and the stability of existing, longstanding minority communities enhanced by prioritizing their needs. Addressing the mobility needs of those residents is one significant way in which that stability can be enhanced.

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