

Re-Imagining Transit Tickets

April 9, 2021

A report for the Justice Sector Constellation on Calgary's Transit Bylaw.

EXECUTIVE SUMMARY

Calgarians with a close proximity to poverty have difficulty affording transit. Many of these same Calgarians use the city's transit out of necessity to access services, their community, and work.

Access to public transit for many is a non-issue, as they either do not use it or can easily afford it. But for others, it serves as their only viable means of transportation and can be a significant cost. There are many people in our city that cannot afford public transit and suffer penalties for using an essential service. This has the effect of limiting access to public transit and increasing legal and financial obstacles for a group that already disproportionately faces such obstacles.

The simple activity of using public transit can be intimidating and uncertain for vulnerable individuals. They experience higher levels of poverty, insecure housing, mental health issues, and racism. It is crucial that these individuals are able to access and afford public transit in order to go about their daily lives and be an active member of society while decreasing their stress and risk.

There is an all-too-common vicious cycle that occurs with transit costs. Individuals cannot afford transit passes, so they don't purchase them. They then receive a by-law infraction ticket/fine, which they cannot afford to pay. To dispute, they must go to city hall or the courts but have no viable means of getting there, so end up using transit without a pass, risking getting another ticket. This entire process is stressful and overwhelming for many. Furthermore, the city bears increased costs, through transit enforcement, ticket issuance, hearing disputes, and other administrative issues.

Fundamental change to the transit bylaw system is needed to better support Calgary's most vulnerable populations. The result will make our city a more accessible, affordable, equitable, and welcoming place to live, work, and play. There are many ways to implement this kind of change and we are using this report to suggest some we believe are feasible options.

This project arose from one of the Justice Sector Constellation's original recommendations and a related recommendation:

- **Recommendation 3.7.1** Reconsider the policy underlying infractions that have a disproportionate impact on those with low income. Develop programs to address the underlying causes for common infractions.
- **Recommendation 1.3** Raise awareness in the justice sector regarding the disproportionate impact of the application of laws on those living in poverty and the use of discretion in the application of laws and policies to those living in poverty. This should include education regarding the root causes of poverty, the relationship between poverty and crime, and the susceptibility of low-income people to having multiple legal issues. Special focus should be placed on the impact of receiving infraction fines for those with low income, and the use of discretion in giving and resolving infraction fines.

REPORT PREPARED BY



PUBLIC INTEREST LAW CLINIC
FACULTY OF LAW

PUBLIC TRANSIT IN CALGARY

The City of Calgary Transit Bylaw 4M81 provides authority for charging transit fare, as well as authority for Calgary Transit peace officers to issue a Fare Evasion Tag (“Tag”), if a transit user doesn’t produce valid fare to the officer upon demand.

If a Tag is paid within 15 days it is \$150, within 16-45 days it is \$200, after 45 days it is \$250. To appeal such a Tag, one must submit for an Administrative Review. If the Tag is upheld after the Administrative Review and one wishes to pursue further, they will be issued a Violation Ticket and have to appear in Provincial Traffic Court.¹

The City of Calgary is currently reviewing their Administrative Penalties System, including transit tickets.²

TICKET PRICES	
Single Fare (90 min)	\$3.50
Day Pass	\$11.00
Low Income Pass Band A	\$5.45 /month
Low Income Pass Band B	\$38.15 /month
Low Income Pass Band C	\$54.40 /month

THE PATH FORWARD

Changes to Calgary’s transit bylaw system are necessary to address difficulties faced by vulnerable Calgarians in their interactions with this system. Vulnerable Calgarians interact with administrative systems differently while also having a uniquely significant reliance on services like transit for all aspects of their daily lives. Proposed changes must consider legal, social, and political implications.

LEGAL

The proposed changes will require shifts in law, regulation, and policy. However, compliance with the Municipal Government Act, Provincial Offences Procedure Act, and specific areas of city bylaws and policy must be considered and integrated into any proposal.

SOCIAL

Legal changes to the transit bylaw system must result in positive outcomes for vulnerable Calgarians while also minimizing broader impacts to the transit system and its other users. The result must have a positive overall social impact.

POLITICAL

A proposal cannot be successful without necessary support from politicians, city staff, and the public. With strong legal and social foundation in place, proposed changes have a better chance of succeeding.

¹ [Calgary Transit - Fare Evasion.](#)

² [City of Calgary - Engage.](#)

Our primary focus in this proposal is the creation of a strong legal foundation, leading to positive social impact and enabling political success. A study undertaken by the Justice Sector Constellation and its partners surveyed 417 people who had received at least one bylaw fine within the City of Calgary.³ This group consisted of court attendees and a community-based survey through social organizations. We have identified the following findings as key indicators for changes to the transit bylaw system:

- 41% of bylaw fines in Calgary are transit-related;
- At least 70% of respondents lived below the Federal low-income cut-off (LICO) standard;
- 58% of respondents were unable to pay their fines and an additional 20% reported being unable to pay rent because of their fine;
- 35% had a warrant issued for their arrest and 18% spent time in a correctional facility;
- 27% missed work, 22% were late for work, and 15% lost a job because of their fine;
- 47% attended a court hearing; and
- 38% indicated that fines would not deter them from committing similar acts in the future.

These statistics demonstrate the disproportionate impact transit bylaw and enforcement has on vulnerable Calgarians while also showing the administrative burden of addressing these fines. This provides empirical support necessitating legal change to correct the social and financial impacts of the current system.

Any solution needs to be made into a bylaw the city can implement. Calgary's transit system needs to be focused on equitability for vulnerable Calgarians. The solution also needs to be attractive to decision-makers and the public.

ISSUE:

What amendments can be made to the transit bylaw and penalty system that address difficulties faced by vulnerable Calgarians that are legally, socially, and politically feasible?

PROPOSAL

We have developed **three possible solutions** to address this issue. Common to all the above proposals, we propose that those who are caught using transit without a pass should be allowed to remain on transit until they reach their destination. Too often vulnerable people are kicked off of transit on their way to important interviews, meetings, appointments etc. The penalty for a transit infraction should be the ticket, not a ticket and also removal from transit which could result in someone being caught somewhere from which they cannot return home.

Transit fares are governed by [Bylaw Number 4M81 "Being of a Bylaw of the City of Calgary to Regulate and Control the Conduct of Passengers on Public Vehicles"](#) ("the Bylaw"). For each proposal, we have identified sections of the Bylaw that would potentially require amendments or could be used as templates.

³ C. Greene, K. Lucas, and N. Williams (2017). *Everything Comes at a Price*. Justice Sector Constellation.

Free for all or if not, free for those most vulnerable.

According to the City of Calgary's "[One Calgary: 2019-2022 Service Plans and Budgets](#)" roughly 44% of the Calgary Transit's operating costs are covered by revenue.⁴ Using 2018 data, for a fully tax-funded transit system, the city would need to make up \$189 million in taxes. This proposal would eliminate the bureaucratic overhead that is currently in place to deal with ticketing and ticketing infractions which would be a source of savings. However, we can expect that if transit were to be fully free or free for some, ridership would increase. While this would likely reduce the operating cost per trip which, again using 2018 data, was \$4.10, it would likely marginally increase the overall operating costs of the Calgary Transit system. This could be done by increasing municipal residential tax rates from roughly 0.0047795 to 0.0056759, however there would certainly be significant push back against this proposal.

An example of where free transit has been implemented is the capital of Estonia, Tallinn. Tallinn is the first European capital to institute free transit for its citizens. Prior to establishing free transit, Tallinn's transit system was 70% subsidized by taxes. Lawmakers in Tallinn struggled to justify spending a large amount of public funds on a service that was too expensive for some to use. The system is based on validation through "Smartcards" that are purchased for 2 Euros and registered for free online. The Smartcards are used to track transit usage and are widely available for purchase throughout the city. Certain citizens are exempted from the use of Smartcards, including people with disabilities and seniors 65 and over.

The Tallinn system is flexible and allows for optional use of Smartcards by those exempted from carrying them. People in exempted groups can obtain Smartcards free of cost. Tallinn has seen increased transit usage since the implementation of the program and has reported increased for mobility low-income individuals.

For more information on the Tallinn Transit System: <https://www.tallinn.ee/eng/pilet/How-to-buy-ticket>.

SECTIONS REQUIRING AMENDMENTS	
s. 2(1.1), (m)	s. 10
s. 4	s. 16.1
s. 6	s. 16.2
s. 7	s. 16.3
s. 9	s. 16.4
s. 9.1	s. 17

PROPOSED LEGISLATIVE AMENDMENTS

The listed sections only require simple amendments if the new free transit system follows the Tallinn model and maintains transit fares for non-residents. The necessary amendments may provide exceptions for Calgary residents or state that fare payment provisions only apply to non-residents of Calgary.

Regardless of the model chosen, new provisions would be required for a free transit model. While not complex, new provisions would need to account for a wide range of factors depending on specific needs and restrictions identified by decision-makers.

PROPOSAL 2

Fine-for-Pass, Trade-In System

This proposal would require transit tickets to include language that would direct those eligible for low-income fare entry transit passes to trade their tickets for a pass. Under this system the tickets would be removed from the record after the individual has purchased their pass. There are issues with this proposal. It is often hard for vulnerable individuals to be able to report a permanent address. Additionally, in order to remain eligible for the fare entry program, individuals must report their income every six months.

PROPOSED LEGISLATIVE AMENDMENTS

Section 16.3, which outlines the existing early payment option system, provides helpful examples for how trade-in system provisions could be modelled. For example, using subsections 16.3(2) and (3) as models, trade-in system provisions may be written as:

(2) A tag must set out a specified penalty for the contravention, and may provide for a Fine-for-Pass option.

(3) If a person who contravened section 9(1) of this Bylaw qualifies as per [section **] for the Fine-For-Pass option and validates their transit violation ticket in exchange for transit passes, within the times and in the manner set out on the transit tag, that validation will be accepted in place of prosecution under the *Provincial Offences Procedures Act* R.S.A. c. p-34.

PROPOSAL 3

Graduated Fine System

Graduated fine systems have been used in Finland, Germany, France, Denmark, Estonia, Romania, Sweden and Switzerland. The most common version of this concept is the day fine system. This system correlates an individual's fine for a bylaw infraction to their ability to pay. Under a day fine system, if one is caught using transit without a pass, they would be given a fine equivalent to one day's income. That income would be calculated by dividing one's yearly income by 365. Countries with this system have used them for speeding infractions. In these instances, being caught going over the speed limit slightly would merit a one day fine, being caught going over the speed limit by a significant amount would result in a two day fine and so on.

Wealthier bylaw violators would be fined significantly more than the average person. Accordingly, vulnerable Calgarians would pay significantly less, or nothing, for the same bylaw violation. It would require some significant study, but it is possible that this system would result in increased revenue for Calgary Transit due to the increased fines from violations by the wealthy.

Under this system, a person caught using transit without a pass would be given a ticket that states their infraction, but not the amount of the fine. The amount would be calculated upon payment.

However, this system would face some logistical issues in the Calgarian context. In Canada, municipalities do not levy income taxes and therefore lack the infrastructure necessary to calculate every individual's income.

One potential method of minimizing the overhead of this system has been offered by Elena Kantorowicz-Reznichenko and Maximilian Kerk both experts in law and economics in their article entitled "[Day fines: asymmetric information and the secondary enforcement system.](#)" Kantorowicz-Reznichenko and Kerk propose that for the purposes of day fines, individuals can self-report their income with the knowledge that there is a possibility that they will be audited and if they are found to have misreported, they could be fined a second time. The second fine would be based on three factors: 1) the daily income of the individual, as it is found to be by the transit administration, 2) the magnitude of the initial misreporting of income. This would incentivize those who are fined to report their income as accurately as possible. It would also vastly reduce the amount of labour that would need to be spent calculating everyone's income.

For a helpful overview of a day-fines system in Finland: <https://www.theatlantic.com/business/archive/2015/03/finland-home-of-the-103000-speeding-ticket/387484/>.

PROPOSED LEGISLATIVE AMENDMENTS

Using s. 16.3 and Schedule B as a template, a formula could be added as "Schedule C" laying out the graduated fine system. For example:

Section	Offence	Income Level 1 (If paid within ** days after the date of the offence)	Income Level 2 (If paid within ** days after the date of the offence)	Income Level 3 (If paid within ** days after the date of the offence)
9(1)	Fare Evasion	\$ **	\$ **	\$ **

In addition to outlining the graduated fine system fees, Schedule C could further include the formulas used to determine each income level, requirements for proof of income, and other eligibility factors.

A provision stating a tag may provide for a graduated fine option like the existing section 16.3(2) should also be added. For example:

(2) A tag must set out the minimum and maximum penalty for the contravention, and must provide instructions for registering tickets under the graduated fine system.

These tags may also account for additional options for violations such as a Fine-for-Pass system, discussed above.

POTENTIAL COMMUNITY PARTNERS

During our work on this project, we received greater insight into community needs, as well as the city's strategy with regards to transit ticketing. This not only helped provide greater insight into what valuable proposals would look like, but also has provided us with a list of potential community partners that would likely be interested in continuing to work on this issue.

SUGGESTED PARTNERS	<u>Calgary Alliance for the Common Good</u>
<u>Disability Action Hall</u>	<u>Vibrant Communities Calgary</u>
<u>Calgary John Howard Society</u>	<u>Fair Fares Calgary</u>
<u>Calgary Transit</u>	<u>Calgary Community Standards</u>

IMPLEMENTATION

The authors of this proposal are law students at the University of Calgary. We have been working on this report as part of our clinical studies with the University of Calgary Public Interest Law Clinic (PILC).

Our work with the PILC concludes on Friday, April 9, 2021. We wish you the best of luck in progressing on this matter. For any inquiries about this report, please contact Christine Laing, Executive Director of the Public Interest Law Clinic.

We thank you for the opportunity to comment on this matter

