

MEETING OF THE EXECUTIVE COMMITTEE FOR THE
METROPOLITAN TRANSIT SYSTEM (MTS)
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

December 5, 2013

MINUTES

A. ROLL CALL

Chairman Mathis called the Executive Committee meeting to order at 9:07a.m. A roll call sheet listing Executive Committee member attendance is attached.

B. APPROVAL OF MINUTES

Ms. Emerald moved for approval of the minutes of the October 3, 2013, MTS Executive Committee meeting. Mr. Ovrom seconded the motion, and the vote was 4 to 0 in favor with Mr. McClellan absent.

C. COMMITTEE DISCUSSION ITEMS

1. Trolley Renewal Project Update

Bruce Schmith, SANDAG discussed the Blue Line Crossover and Signaling project including milestones reached and remaining punchlist items. Paul Jablonski advised the signaling system is state of the art, micro processed, reverse running, etc. and it is the same system that will extend northward for Mid-Coast. Mr. Schmith further discussed the ongoing rail replacement, station work and completion dates. Mr. Jablonski advised the 8th Street Station property paperwork was being signed and the property would soon be under MTS's control. Mr. Jablonski stated Flat Iron would be submitting drawings that were compliant with the contract and discussed current liquidated damages. Mr. Schmith reviewed track work status at Harborside station, Pacific Fleet Station, future Blue Line projects including San Ysidro Yard Improvements, South Line Improvements and Slope and track bed reconstruction. He reviewed traction power substation installation and site acquisition. Mr. Terry discussed the light rail procurement status. Mr. Roberts asked if there was any progress on the early purchase of the cars. Mr. Jablonski responded the Federal Government requires the cars to be depreciated and there is still risk that by the time Mid-Coast opened the cars would be 4 years old, therefore the early purchase does not make sense.

Action Taken

Informational item only. No action taken.

2. Appointment of MTS Chairperson

Discussion ensued between the Committee members regarding re-appointment of Harry Mathis as MTS Chairperson.

Action Taken

Ms. Emerald moved to forward a recommendation to the Board of Directors regarding the appointment of Harry Mathis as MTS Chairperson. Mr. McClellan seconded the motion, and the vote was 4 to 0 in favor with Mr. Mathis absent.

3. San Diego Transit Corporation Employee Retirement Plan's Actuarial Valuations as of July 1, 2013

Larry Marinesi, Chief Financial Officer introduced Robert McCrory and Ann Harper of Cheiron, Inc. Mr. McCrory discussed the plan's current status, plan cost, plan history and future. Mr. Roberts asked if the last 8 years were positive financially for the plan. Mr. Marinesi reviewed the positive vs. negative years and percentages. Ms. Harper reviewed the plan normal cost by benefit, plan cost by source, plan cost history, plan funding history and history of active membership. Mr. McCrory reviewed plan future, projected total contribution rate, projected funded ratio, actuarial funding and SDTC funding policies. Mr. Marinesi stated that with the previous Board actions the unfunded liability will be a 100% funded plan in the future and while the percentage is increasing by 3% MTS will have to look at it from a dollar perspective as the pool of individuals is decreasing. Employees are continuing to contribute to their respective benefit plans with 3-4% being contributed by employees.

Discussion ensued regarding employee contributions and percentages.

Action Taken

Ms. Emerald moved to forward a recommendation to the Board of Directors to receive the San Diego Transit Corporation (SDTC) Employee Retirement Plan's actuarial valuation as of July 1, 2013, and adopt the pension contribution rate of 39.147 percent for SDTC's pension plans in fiscal year 2015. Mr. Roberts seconded the motion, and the vote was 5 to 0 in favor.

4. Security Services Agreement – Exercise Option Years

Karen Landers, General Counsel reviewed the Security Services contract particulars, the contract term including the base period and two 1-year options which will get MTS through June 30, 2016. She discussed the May 2013 additional funding for extra security patrols. Mr. Jablonski stated there was additional security provided and revenue to fund those expenses. Ms. Landers provided a recommendation.

Ms. Emerald asked if the security guards have benefits. Ms. Landers advised they entered into a collective bargaining agreement earlier in the year and a report was given to the Public Security Committee including offered health insurance and vacation time.

Action Taken

Mr. Roberts moved to forward a recommendation to the Board of Directors to authorize the Chief Executive Officer to exercise Option Years 1 and 2 under MTS Doc. No. G1299.0-10 with Universal Protection Services for the provision of security services for fiscal years 2015 and 2016. Mr. Ovrom seconded the motion, and the vote was 5 to 0 in favor.

5. RTMS Back-Office Upgrade and Contract Bus Fleet Expansion

Bill Spraul, Chief Operating Officer of Transit, provided background information including the current bus communications systems, the age of the system and the status of the East County, South Bay and Chula Vista communications systems. He reviewed the challenges of the existing system including the lack of visibility and consistency. He discussed the goal of the project and process overview and provided an overview of the recommended system.

Ms. Emerald asked if this would give MTS the ability to communicate with other systems. Mr. Spraul advised that it would provide this ability. Mr. Spraul discussed the RCS system. Ms. Landers stated she's been working with Staff at RCS as the projects are intersecting and discussed the average cost per radio and advised the MTS would transition from a member agency to a non-member agency and would pay the higher non-member rate, but MTS will not pay a capital cost and staying as a member would be cost prohibitive.

Action Taken

Ms. Emerald moved to forward a recommendation to the Board of Directors to authorize the Chief Executive Officer to execute MTS Doc. No. G1544.0-13 with ACS Transport Solutions, Inc. to purchase, install, test and verify, and warranty Regional Transportation Management System equipment, hardware, software, and back-office equipment for the MTS bus, MTS contracted bus, and NCTD fleets. Mr. Roberts seconded the motion, and the vote was 5 to 0 in favor.

6. Taxicab Administration Contract Extension

Sharon Cooney, Chief of Staff provided a recent contract history, the City of San Diego's activities including the establishment of an ad hoc stakeholders group, conducting a consultant study specification and the November 6th request by the City to extend the contract with MTS for 5 years. She discussed the draft contract renewal, and gave a Staff recommendation.

Public Speakers:

Mikaill Hussein - Mr. Hussein advised there was an issue with MTS with regard to leased drivers and the consumers being served. He discussed tickets being given by MTS officers and stated that he had sent a letter to Bill Kellerman claiming retaliation that initiated from MTS.

Abebe Antallo - Mr. Antallo stated that he was a leased driver with United Taxi Workers of San Diego and after 8 years of driving the cab was taken from him and the police did not help him and he has never had one ticket. He came to MTS to report abuse and he has license and medallion and cannot work and as a driver asked that MTS halt the contract renewal until a new Mayor is elected.

Chris Morse – Mr. Morse advised he is a legal intern with United Taxi Workers of San Diego and that Mr. Bill Kellerman will not work with him and it is not a good faith relationship as many of the drivers cannot speak English and they are unable to

understand the legal language in a contract. He stated another issue was a meeting regarding a minor traffic incident with MTS officers present and he asked Mr. Kellerman regarding the process and stated there is no consistent regulation.

Sarah Saez – Ms. Saez stated that the main question is whether the contract renewal is legal and was not sure if Interim Mayor Gloria was legally allowed to sign long term contracts on behalf of the City. She stated many of the drivers face retaliation, harsh working hours and low earnings. She said that the drivers are immigrants and refugees. She stated that many of the drivers are on public assistance, there is a direct correlation to the safety of the public and if MTS does not want to provide these regulations this is bad governance. She stated many conversations need to happen before a long term contract is signed.

Michel Anderson – Mr. Anderson advised he represented West Coast Cab and he was also representing the San Diego Transportation Association. He said he was representing owners, but many of the owners are also drivers and many of the owners are immigrants and specifically cited Eritrean Cab. He stated he supported a contract renewal as insurance requirements and rates cannot be changed until the contract administration is settled.

Mr. Roberts asked regarding the contract renewal process. Ms. Landers advised it will go through various City committees before it goes to the City Council for approval. MTS has to follow its internal procedures and the City of San Diego has to follow its policies and procedures and MTS wants to make sure it has support of its Board before it goes through the City process. Ms. Landers advised the current contract expires June 30, 2014. Mr. Jablonski advised he does not believe the City is working on the transition at this point. Ms. Emerald stated she had not seen a draft before today and asked to postpone this item to January.

Action Taken

Mr. Roberts moved to forward a recommendation to the Board of Directors to authorize the Chief Executive Officer to negotiate with the City of San Diego a "Ninth Amendment to Agreement for Administration of Taxicab and other For-Hire Vehicle Regulations between San Diego Metropolitan Transit System and City of San Diego" (MTS Doc. No. G0225.9-95). Mr. McClellan seconded the motion, and the vote was 4 to 1 in favor with Ms. Emerald opposed.

D. REVIEW OF DRAFT DECEMBER 12, 2013, BOARD AGENDA

Recommended Consent Items

6. Bus Operator Uniforms - Contract Award

Action would authorize the Chief Executive Officer (CEO) to: (1) execute MTS Doc. No. B0600.0-13 with Kingsbury Uniforms, Inc. for the provision of bus operator uniforms for a three-year base period with 2 one-year optional terms (for a total of 5 years); and (2) exercise each option year at the CEO's discretion.

7. Investment Report - October 2013

Informational item only.

8. Building C Backup Electrical Power Generator - Contract Award

Action would authorize the CEO to execute MTS Doc. No. PWL150.0-14 with Global Power Group, Inc. to procure and install a 400 kW, 500 KVA backup electrical power generator at MTS's Building C LRV Maintenance Facility.

9. General Engineering and Real Estate Services for MTS Right of Entry and Right-of-Way Issues

Action would ratify previous actions and authorize the CEO to execute Work Order No. 13.01.02 to MTS Doc. No. G1496.0-13 with RailPros, Inc.

10. Drug and Alcohol Collection, Testing, and Administration Services - Contract Award

Action would authorize the CEO to: (1) execute MTS Doc. No. G1550.0-13 with Drug Testing Network, Inc. for the provision of drug and alcohol collection, testing, and administration services for a two-year base period and 3 one-year optional terms, exercisable at MTS's sole determination, for a total of five years; and (2) exercise each option year at the CEO's discretion.

11. Independent Auditing Services - Contract Award

Action would authorize the CEO to: (1) execute MTS Doc. No. G1513.0-13 with Pun and McGeady, LLP for the provision of independent auditing services for a five-year base period with 3 one-year option terms (for a total of 8 years); and (2) exercise each option year at the CEO's discretion.

12. Actuarial Services for the San Diego Transit Corporation (SDTC) Pension Plan - Contract Award

Action would authorize the CEO to: (1) execute MTS Doc. No. G1650.0-14 with Cheiron for the provision of actuarial services for the SDTC pension plan for a five-year base period and 5 one-year option terms exercisable at MTS's sole determination; and (2) exercise each option year at the CEO's discretion.

13. Railroad Bridge Inspection Services - Contract Award

Action would authorize the CEO to execute MTS Doc. No. PWL147.0-13 with J.L. Patterson for the provision of railroad bridge inspection services for five years (beginning on February 1, 2014, and ending on January 31, 2019).

14. Regional Transportation Management System (RTMS) Radio Tower at Mt. Soledad Station, Naval Base Point Loma - Site Lease Amendment

Action would authorize the CEO to execute MTS Doc. No. B0513.2-09 with the Department of the Navy to continue the lease of MTS's Mt. Soledad Signal Station

site for five years.

E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA

Review of SANDAG Transportation Committee Agenda and discussion regarding any items pertaining to MTS, San Diego Transit Corporation, or San Diego Trolley, Inc. Relevant excerpts will be provided during the meeting.

F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS

There were no Committee member communications.

G. PUBLIC COMMENTS

There were no Public comments.

H. NEXT MEETING DATE

The next Executive Committee meeting is scheduled for January 9, 2013.

I. ADJOURNMENT

Chairman Mathis adjourned the meeting at 10:38 a.m.


Chairman

Attachment: A. Roll Call Sheet

B. E-mail from Councilmember Jim Cunningham supporting Harry Mathis for re-appointment as MTS Chairperson

C. Handout from Sarah Saez: Driven to Despair: A Survey of San Diego Tax Drivers – San Diego State University and the Center on Policy Initiatives, May 2013

**EXECUTIVE COMMITTEE
METROPOLITAN TRANSIT SYSTEM**

ROLL CALL

MEETING OF (DATE) December 5, 2013

CALL TO ORDER (TIME) 9:07 a.m.

RECESS N/A

RECONVENE N/A

CLOSED SESSION N/A

RECONVENE N/A

ADJOURN 10:38 a.m.

| BOARD MEMBER | (Alternate) | PRESENT (TIME ARRIVED) | ABSENT (TIME LEFT) |
|--|--|---------------------------|-----------------------|
| GLORIA | <input type="checkbox"/> (Emerald) <input checked="" type="checkbox"/> | 9:07 a.m. | 10:38 a.m. |
| MATHIS | <input checked="" type="checkbox"/> | 9:07 a.m. | 10:38 a.m. |
| OVROM | <input checked="" type="checkbox"/> (Bragg) <input type="checkbox"/> | 9:07 a.m. | 10:38 a.m. |
| ROBERTS | <input checked="" type="checkbox"/> (Cox) <input type="checkbox"/> | 9:07 a.m. | 10:38 a.m. |
| CUNNINGHAM | <input type="checkbox"/> (McClellan) <input checked="" type="checkbox"/> | 9:12 a.m. | 10:38 a.m. |
| Transportation Committee Rep Slot (Mathis) | | | |

SIGNED BY THE CLERK OF THE BOARD: 

CONFIRMED BY THE GENERAL COUNSEL: 

Nikki Machado

From: Jim Cunningham <JCunningham@poway.org>
Sent: Wednesday, December 04, 2013 6:06 PM
To: Nikki Machado
Cc: Marti Emerald; mcclellan6@cox.net; Al Ovrom; Harry Mathis; Harry Mathis; Ron Roberts; Todd Gloria
Subject: Re: MTS | Executive Committee Meeting 12/5/13 - Additional Materials

Dear Team MTS:

Although, I will unfortunately be unable to attend the EBoard meeting I , in abstentia ,do wholeheartedly support the re-appointment of Harry as the Chair. His steady and reasoned hand has served MTS well over the years.

Happy Holidays:

Jim
Sent from my iPad

On Dec 4, 2013, at 2:30 PM, "Nikki Machado" <Nikki.Machado@sdmts.com> wrote:

Dear Committee Members:

Attached, please find a letter from Harry Mathis and Agenda Item C5 for your review. Hard copies will be placed at your seat at tomorrow's meeting as well.

Thank you,

Nikki Machado
Executive Assistant to CEO Paul Jablonski and
Clerk of the Board
Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7492
Phone: (619) 557-4515
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UNITED TAXI WORKERS of San Diego
Advocate · Educate · Organize · Empower

*Dedicated to
Drivers Rights &
Equality in the
Taxi Industry*
www.utwsd.org



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Program Director
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4265 Fairmount Ave., Suite #180 San Diego, CA 92105



Driven to Despair:

A Survey of San Diego Taxi Drivers

San Diego State University and the Center on Policy Initiatives

May 2013

As the City of San Diego considers reforming the regulation of its taxi industry, this report presents results of a survey of San Diego taxi drivers conducted in March and April of 2013. We surveyed more than 300 taxi drivers, asking about earnings, expenses, hours, health care, vehicle safety and industry practices. While the city's taxi drivers are technically independent contractors, the vast majority lease rather than own the taxis they drive. This report focuses on those "lease drivers."

Taxis are a crucial link in San Diego's public transportation network. In a metropolitan area with few mass transit options, taxis are vital for the region's tourism industry, as well as for local businesses and residents. The City of San Diego issues taxi permits and regulates the industry through a contracted agency, the Metropolitan Transit System (MTS). Rather than renewing the five-year MTS contract when it expires in June 2013, the City has decided to extend the contract one year while studying options for reforming the system.

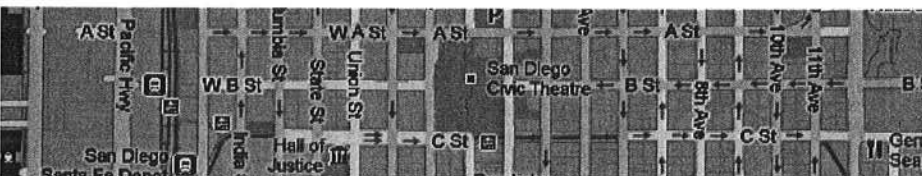
The findings reported here reveal problems with the taxi regulatory system and working conditions that have serious impacts on public health and safety, as well as the lives of the drivers and their families.

Key findings:

- 1)** Almost 90% of licensed taxi drivers in San Diego are "lease drivers," who rent the cars from individual or business owners, usually by the week.
 - 2)** San Diego taxi drivers earn a median of less than \$5 an hour. They must drive for more than 70 hours a week to earn what a minimum-wage worker makes in 40 hours.
 - 3)** Virtually no drivers have job-related health coverage or workers' compensation insurance, and few are covered for injuries in case of accidents.
- While they lack employee benefits, drivers also are denied the business practices standard for independent contractors.

 - 4)** The current system encourages taxi drivers to drive when tired or sick, and allows lax vehicle maintenance, putting public health and safety at risk.
 - 5)** City permits are re-sold on the open market without regulation, for tens of thousands of dollars more than their purchase price. As a result, drivers pay high lease prices and are blocked from becoming owner-operators.

By Jill Esbenshade, PhD, and Muna Aden, Andy Anderson, Amy Ash, Linzi Berkowitz, Roberto Danipour, Lea Marzo, Janelle Perez, Andrew Quinn, Rebecca Quinn, Karina Russ, Helga Staalhane, and Carolina Valdivia, with Susan Duerksen and Peter Brownell, PhD.



**SAN DIEGO STATE
UNIVERSITY**

1)

Almost 90% of licensed taxi drivers in San Diego are “lease drivers” who rent the cars from individual or business owners, usually by the week.

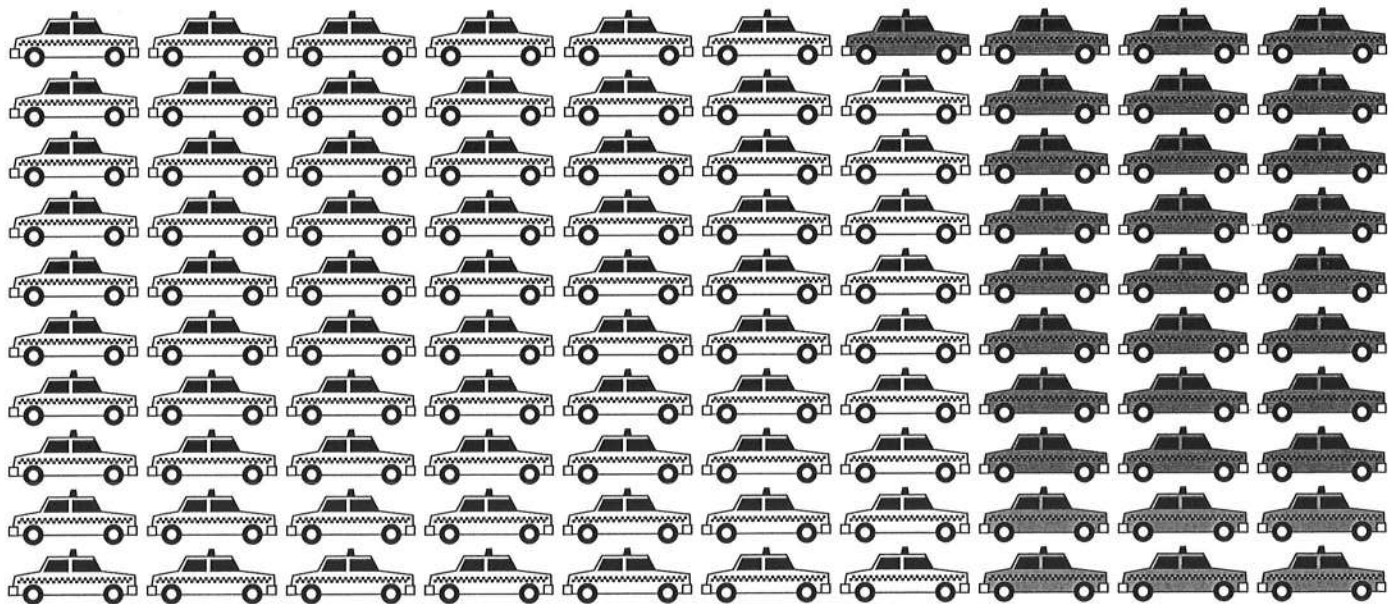
While taxi drivers are legally treated as independent contractors, and are required to have business licenses, 89% of licensed drivers do not own a taxi. Rather the cars and the taxi permits, sometimes referred to as “medallions,” are owned by other individuals or businesses, referred to as “permit holders” or owners. Throughout this report, unless otherwise noted, the term “drivers” refers to “lease drivers,” who rent the cars they drive.

Most taxi permit holders in San Diego are not owner-operators who drive their own cabs. By cross-referencing a San Diego County Sheriff’s list of all licensed taxi drivers with an MTS list of all permit holders, we found that almost 60% of individuals who own taxis are not even licensed to drive a taxi. Of the 1,058 taxis registered under MTS, 726 (69%) are owned by permit holders who own multiple vehicles; only about a quarter of those are owned or

co-owned by a licensed driver and all have lease drivers licensed to operate them. Only 18% of taxis are owned by a licensed taxi driver who owns just one cab, and two-thirds of those also have lease drivers licensed to drive them.

The third major player is the dispatch company, of which Yellow Cab is the largest in San Diego. Every taxi must be affiliated with a dispatch service, which takes and distributes calls, does advertising, and sometimes manages the drivers, collects their lease payments and takes care of other financial operations such as credit card charges and insurance.

The largely unregulated relationship between drivers and the permit holders is at the crux of many of the complaints drivers have about working conditions, safety and pay.



Owners have multiple cabs and lease to drivers*



Owners have one cab and lease to drivers*



Owners have one cab and only drive it themselves

Figure 1. Only 6% of SD taxis are licensed to be driven only by the owner.

**Some owners are licensed taxi drivers but also lease out their cabs. See text for details.*



2)

San Diego taxi drivers earn a median of less than \$5 an hour. They must drive for more than 70 hours a week to earn what a minimum-wage worker makes in 40 hours.

The median earnings of lease drivers, including tips, amount to \$4.45 an hour, despite the fact that San Diego has the second highest fare rates in the country.¹ Although lease drivers work a median of 71 hours a week, they take home a weekly average of only \$317.

Net earnings are so low because drivers' expenses are high, especially for the lease and gas. The lease rate averages approximately \$400 a week for 12 hours a day, and substantially more for a 24-hour lease. Drivers report spending an average of \$256 a week on gas, plus an estimated \$60 a week on miscellaneous costs: car washes, cell phone service, tickets, repairs and credit card fees, which account for the largest portion of these costs. Aside from gas costs, these figures are comparable with and even lower than estimates produced by an MTS consultant in 2011.²

Regulations require that the owner equip each taxi with a credit card machine. When passengers pay with credit cards, the dispatch companies usually deduct 5% to 10% of the fare, far above the 1% to 2% transaction fee charged by the card companies.

Drivers report that tips are almost always charged with the fare when passengers use credit cards, so the fee is deducted from their tips as well. Although drivers report that only 27% of their passengers, on average, come from dispatch calls, these fees apply to charged

fares regardless. Cell phone alternatives for credit card processing might lower the drivers' costs, but we estimate that 85% of drivers use the dispatch company machines; some said they were told it is required, some did not know of the alternatives and others said customers often are suspicious of the cell phone method.

In addition, drivers lose income when the vehicle is out of service.

Besides missed fares, they sometimes also continue to incur debt when owners do not pro-rate the lease while cars are off the road for repairs that are the owners' responsibility. Drivers also must continue to pay the lease but lose many hours' income for circumstances such as drunken customers vomiting in the taxi, which causes the additional expense of professionally cleaning the carpet and upholstery.

Due to high expenses, fewer than 10% of drivers earn even the equivalent of California's minimum wage of \$8 an hour. In addition, if the drivers were hourly employees, they would legally have to receive time-and-a-half overtime pay for any hours over 40 a week. The drivers surveyed averaged eight years of experience, and there was no significant correlation between years of experience and higher earnings. Rather, drivers continue to work long hours and struggle to cover expenses after years in the industry.

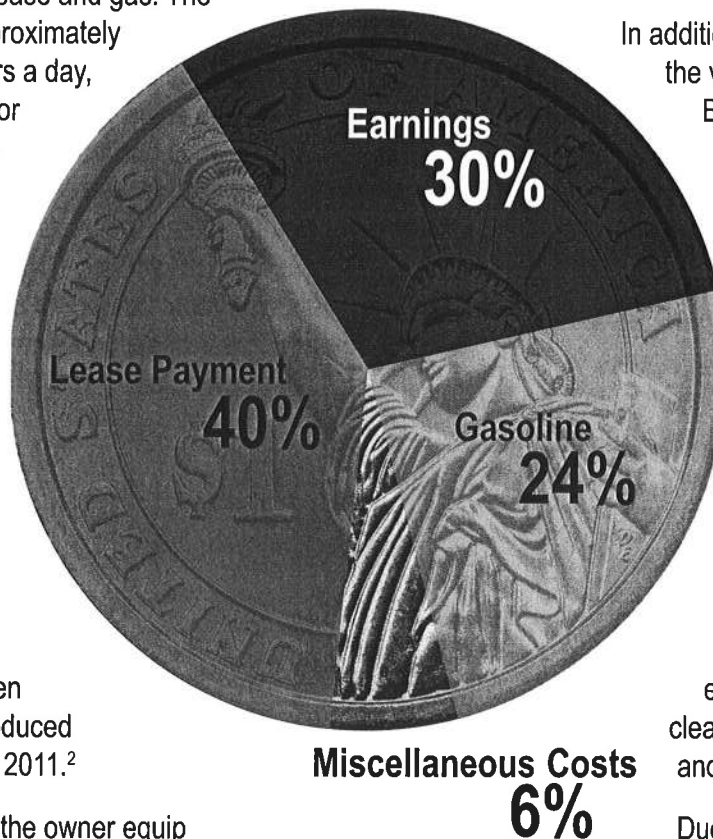


Figure 2. Taxi drivers take home only 30 cents of each dollar collected, including tips.

3)

Virtually no drivers have job-related health coverage or workers' compensation insurance, and few are covered for injuries in case of accidents. While they lack employee benefits, drivers are also denied the business practices standard for independent contractors.

Ninety-nine percent of drivers report that they are not covered by employment-based health insurance. The combination of very low wages and absence of health coverage means the public subsidizes the industry in terms of the provision of healthcare to drivers and their families. Only 10% have private health insurance, mainly through a spouse's job or private purchase, while 18% report that they are covered by government programs like Medi-Cal and 71% report being completely uninsured. The uninsured must rely on public clinics and emergency rooms for care, and those costs are typically passed on to insurance ratepayers or covered by public funds. Hence, the public is subsidizing coverage for workers in a particularly unhealthy industry, where drivers are subject not only to injury from accidents and attacks, but also commonly suffer such ailments as leg, foot and back pain, diabetes from infrequent bathroom use, and weight gain

and high blood pressure from sitting for 12 hours a day. The majority (52%) also have children at home, 85% of whom are either uninsured (31%) or covered by a government program (54%).

Compounding the lack of health insurance, the vast majority of lease drivers in San Diego also are not covered for injuries or accidents by workers' compensation or the owner's auto insurance, although taxi driving is one of the most dangerous occupations.³ As non-employees, they are not entitled to workers' compensation but could purchase it for themselves; however 78% did not know of the program, and virtually none were enrolled in it. Furthermore, almost three-quarters report that they are not covered for medical expenses on the car insurance of the taxis they drive, and an additional 12% do not know if they are covered.

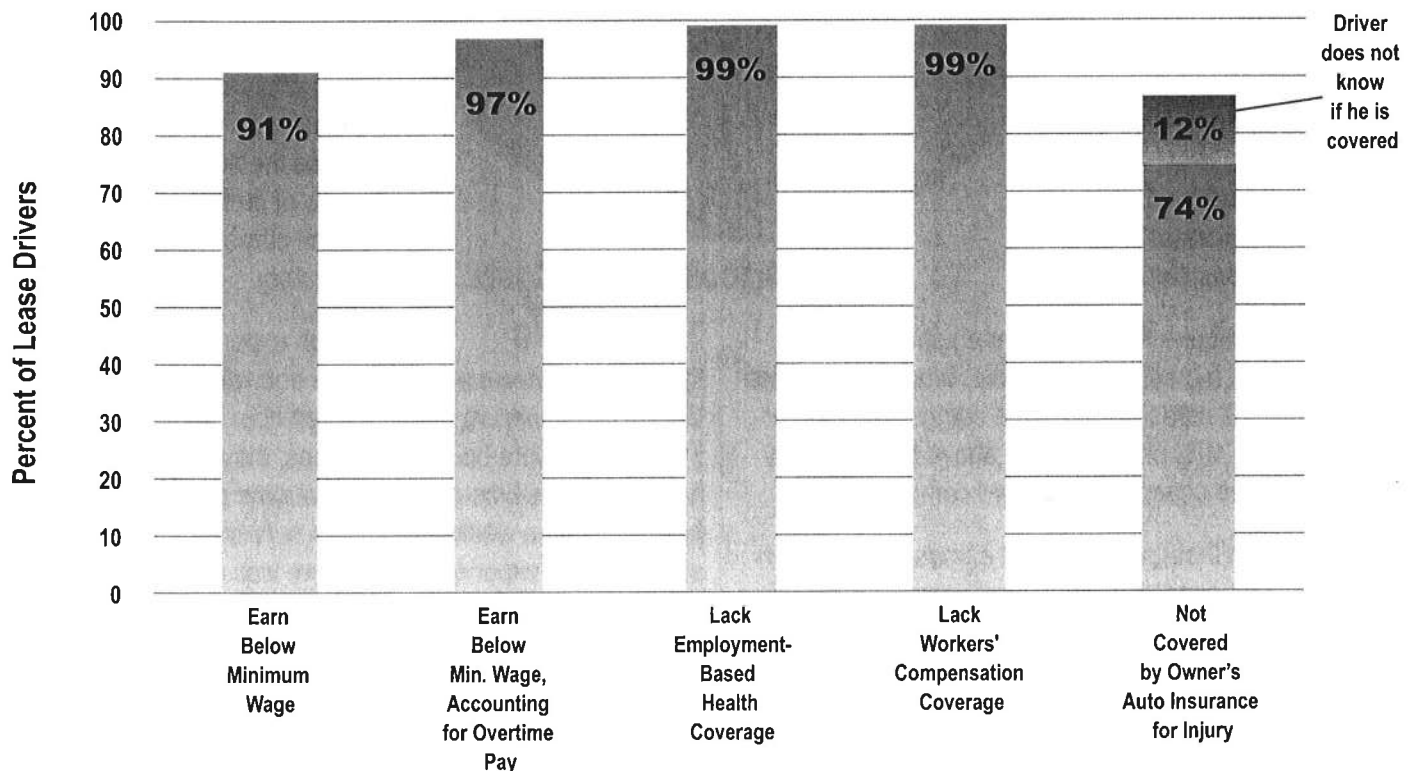


Figure 3: Almost all taxi drivers lack standard pay and benefits.

While drivers lack the rights and benefits discussed above because they are technically independent contractors, neither does their treatment by owners conform to standard business-to-business practices. Almost half (49%) of drivers have no written lease agreement with their permit holder and even more (63%) report that they have no written information about what the lease covers.

This situation is ripe for violations of the regulations that do exist. For instance, the city policy governing the taxi industry (Ordinance 11) requires owners to repair and maintain the vehicles. However, almost 20% of lease drivers report paying for routine vehicle repair and mechanical maintenance themselves and 27% report paying for accident repairs. Moreover, half of all drivers do not get receipts for their lease payments and another 10% only sometimes get receipts. Considering that 97% report paying their lease at least partially in cash, this means that tens of millions of dollars are changing hands each year without documentation. For drivers expected to operate as small businesses, the result is that they do not have records of their largest business expense for tax purposes.

Drivers lack control over basic decisions that affect their businesses. For example, they cannot choose which dispatch company they are affiliated with or what advertising is displayed on the cars they drive – including ads for bars or other businesses that may violate their religious beliefs. Income from the ads goes to the permit holders or the dispatch company, not the driver leasing the car.

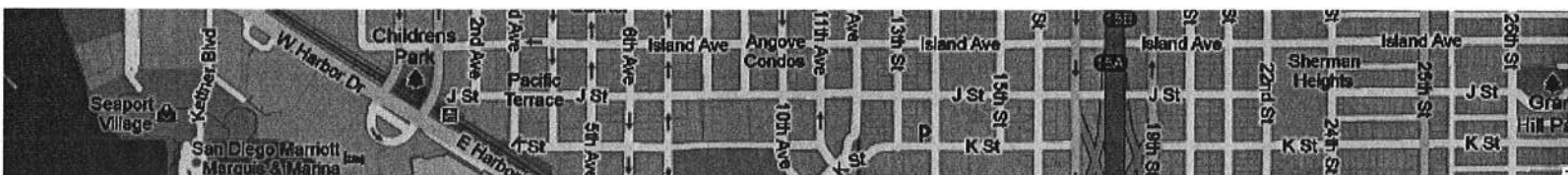
Drivers also rarely have the freedom to choose to lease fewer than 12 hours a day or seven days a week. Some owners insist on a 24-hour lease and refuse to let the driver split it with someone else. Furthermore, lease drivers must acquire a “hire slip” from a permit holder to qualify for the taxi license issued by the sheriff, and those licenses tie them to specific permit holders. If either party severs the relationship, the driver must get a “hire slip” from someone else and then wait for and pay for a new sheriff’s license.



“

As a driver I must take credit cards. But the owner... takes only cash. Besides that, no receipt! If you ask for a receipt, the next morning you can be out.

”



4)

The current system encourages taxi drivers to drive when tired or sick, and allows lax vehicle maintenance, putting public health and safety at risk.

Virtually all (99%) of taxi leases are for either 12 or 24 hours a day, and 86% are for 7-day weeks, which encourages drivers to drive long hours to cover the high lease costs and other expenses, and still earn even a meager income. As a result, the lease drivers work a median of 71 hours a week. Almost 80% drive 6 days a week or more, with the majority (53%) driving 7 days a week. On days they work, 82% report working at least 10-hour shifts, with the majority (54%) working 12 hours or more.

The public safety hazard of driving long shifts was made clear in 2011 when an exhausted taxi driver fell asleep after many hours at the wheel and crashed into a crowd outside the Stingaree Night Club in downtown San Diego. Dozens were injured and the angry crowd assaulted the driver.⁴

Drivers also often drive when they are sick because of financial pressures. Besides the loss of potential fare income, they get no sick-time relief from the obligation to pay the lease. Two-thirds of drivers report paying the lease for days they do not drive, most commonly because of illness. As one driver said: "When I call off sick, it's like I have to pay my company to be sick." Another driver explained that after driving with the flu for several days she ended up in the emergency room, for which the hospital later billed her \$4,000. The current system creates a strong incentive for drivers to work despite illness or injury, which may impair their driving and may expose passengers to communicable diseases.

Vehicle safety is another serious concern for the public, as well as the drivers. According to MTS records, safety violations were found in almost all the 95 taxis stopped for traffic violations and other reasons between July 2011 and July 2012: "98.05 percent of vehicles contacted were

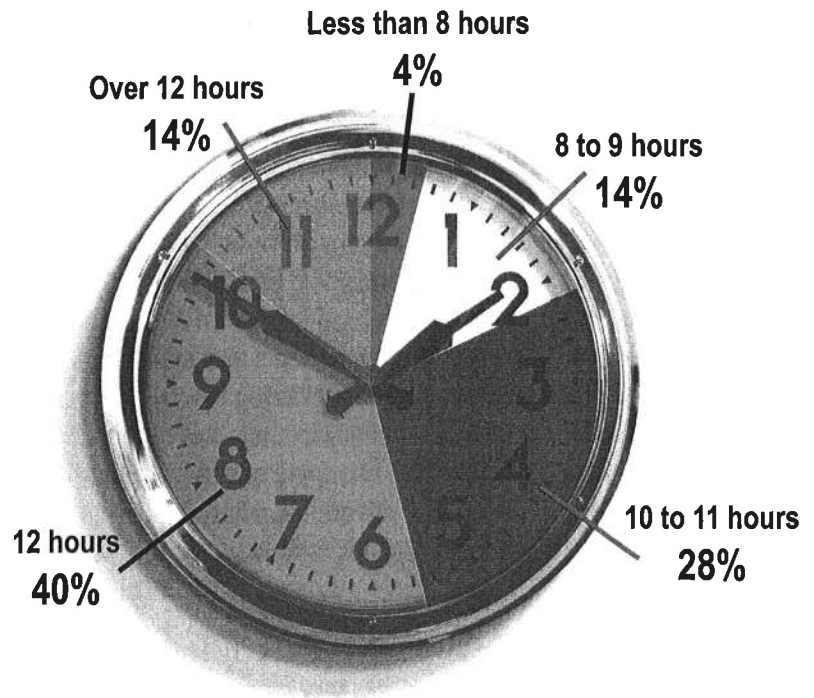
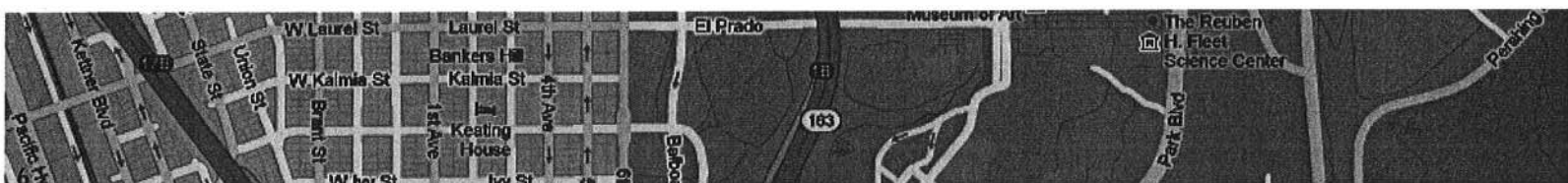



Figure 4. Four of every five taxi drivers work 10-hour shifts or longer.

taken out of service. Of those vehicles, 94.05 percent was because of safety violations."⁵

Even at the airport, the only area in the City with a vehicle age limit on taxis, spot inspections of random vehicles in 2012 resulted in 44% taken out of service for safety violations.⁶ According to our survey, 38% of taxis on the road in San Diego are 10 years or older. The majority (53%) of cars have 200,000 miles or more, with nearly 20% at 300,000 miles or higher.





During our surveys and in-depth interviews, we repeatedly heard from drivers that owners commonly postpone vehicle maintenance and even manipulate inspection results. One driver showed us how he had covered up the "check engine" and other maintenance lights on the dashboard with little pieces of paper so as not to worry customers, because his owner would not fix the problems. Several drivers reported newer tires being put on vehicles before a scheduled safety

inspection and then switched back afterward, with one driver recounting that he had been fired because he did not want to let the owner "borrow" the tires from his leased vehicle for the inspection of another taxi. When drivers were asked in an open-ended question what would most improve the industry for the public, the most common answer was better vehicle safety.

“

I pay lease, I pay gas, so I must make a certain amount of money every day... I must drive very long every day.

I do not see my kids. Sometimes I leave before they are awake and when I come home they are asleep.

”

“

When I call off sick, it's like I have to pay my company to be sick.

”

Demographics of drivers surveyed:

Gender: 97% male

Average age: 43

Immigrants: 94%

Average years in US: 16

Region of origin: 65% East Africa, 15% Middle East, 6% Other Africa, 6% US, 4% Latin America

Residence: Majority live in City Heights or contiguous zip codes

5)

City permits are re-sold on the open market without regulation, for tens of thousands of dollars more than their purchase price. As a result, drivers pay high lease prices and are blocked from becoming owner-operators.

Although permits are issued by MTS for a fee of \$3,000, they are re-sold on the open market for up to 45 times this amount. In 2011, an MTS consultant estimated the range on permit re-sales to be \$35,000 to \$110,000 based on individual accounts.⁷ We estimate the 2013 price to be even higher. Eight owner-operators in our survey estimated the current value of their permits, and both the mean and median were \$140,000. It should be clarified that these permits are not private property; according to the City Attorney they are a privilege that can be granted, withdrawn, altered or revoked. However, the permits are re-sold with very little regulation and no income to the city or its agent MTS, which receives just \$1,992 to \$4,400 per transfer to cover administrative expenses.⁸

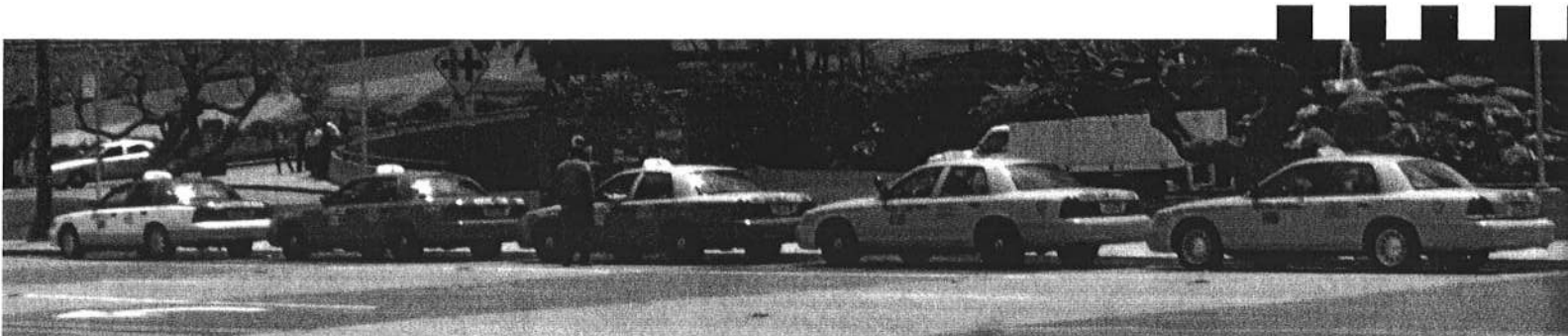
Regulation of this market could increase revenue for the City and reign in the extraordinary resale prices. The high prices for permits have two major detrimental effects:

1) They drive up lease rates charged by permit holders trying to recoup the costs, and 2) They create an insurmountable hurdle for drivers who wish to become owner-operators but cannot afford the permits.

Further blocking the path to taxi ownership for the drivers, city policy gives preference for new permits to companies over individuals. According to City Policy 500-02, issued in June 2012, 60% of new taxi permits will be issued in blocks of five to taxi companies, while only 40% will be issued as single permits to experienced drivers.

An owner:

“ I buy taxi permit and, like property or anything else, it is like investment. So I lease out to my driver and I need to make profit, too. It is my investment and I still pay for it, so I must charge more than that per day to make profit. ”



Retaliation

Lease drivers in San Diego have no legal protection from retaliation by permit holders. This vulnerability not only demonstrably reduces the drivers' ability to participate in an open discussion of the industry, but also prevents them from ensuring the safety of themselves and their customers. In the survey, half the drivers report being scared that the permit holder would fire or suspend them (or "take away the key") if they brought up a problem with the vehicle, and a full two-thirds fear going to MTS – the regulatory agency – if their owner did not fix a problem with the vehicle. The common perception is that MTS would inform the owner who would then retaliate against the driver. Anecdotally, a number of drivers recounted that the owner had taken the keys after they complained about the vehicle or spoke up at public meetings or to authorities – and a few were blacklisted. Some drivers we spoke to have not been able to find work again, while others had difficulty finding a new position.

One driver reported having the keys taken away after he complained that the air conditioner did not work during a particularly busy conference week in the summer. Seeking a new job, he was rejected by another permit holder, who said: "Your boss told me that you're trouble."

Another driver said: "When you complain, they kick you out and they tell to each other."

“

If you go to a meeting or something, there is a lot of retaliation for lease drivers.

If they see you on TV, they call you right away and say:

“Get out of my car. Why did you go there? Who gave you permission?”

”

We attended a driver meeting where drivers were encouraged to run for the Taxi Advisory Committee of MTS, but responded that they would not step forward because they would be fired, and that they feared being fired just for attending the meeting. This raises serious concerns about the ability of lease drivers to participate in the civic process of reforming the City's taxi system, without protections from retaliation.



POLICY RECOMMENDATIONS:

The City of San Diego has an opportunity and responsibility to reform the taxi industry. New governance of the industry should include policies that encourage decent working conditions, protect public health and safety, and resolve the limbo status that leaves lease drivers with neither legally-mandated employee protections nor the standard treatment afforded business owners.

For the short term, we suggest three main policies that have been successfully implemented in other cities:

● A standard lease agreement for use between lease drivers and permit holders, developed by the City, that specifies the following:

1. A cap on lease rates
2. A requirement that owners provide written receipts for all lease payments
3. A limit on the number of hours drivers work in each 24-hour period
4. Provision for drivers to take one day off each week in which they are not liable for lease payments
5. Employer responsibility for vehicle insurance and maintenance

The lease agreement should be enforceable and include a simple and equitable dispute resolution process. Permit holders must be required to give drivers a written copy of the agreement, which should be in simple language and available in the most common languages spoken by the drivers.

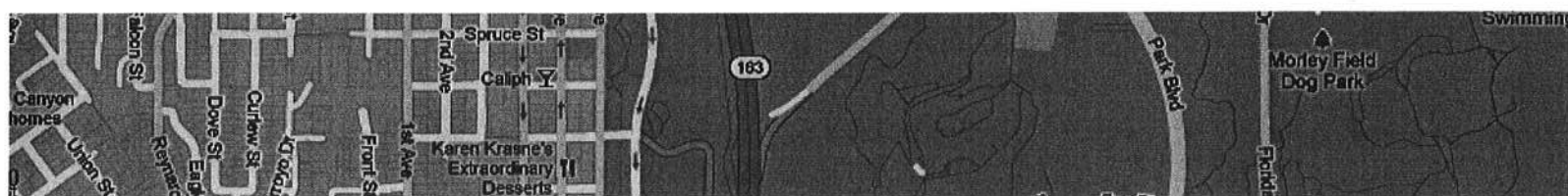
● An age limit and mileage cap on all vehicles, and more consistent safety inspections. If cars are taken out of service because of safety violations, the driver should receive a refund on the lease for the number of days (or partial days) that the vehicle is not available.

● A policy prohibiting the firing or blacklisting of drivers in retaliation for 1) participating in activities to improve the industry, including consulting with city staff or their agents, or 2) complaining about their own treatment or the safety or maintenance of their vehicles. A simple complaint system should be developed to encourage reporting of safety problems.

With these policies in place, the City should fund an education program to make sure all permit holders and drivers are aware of their rights and responsibilities. These rights and responsibilities should be clearly posted in each vehicle.

In the long term:

● The City should reform the system so that lease drivers are either afforded the protections of employees or are given ample and realistic opportunities to become owner-operators. Various models exist in other cities to transform the out-of-control permit transfer market, which currently drives high leases and unsafe conditions, into a controlled system that benefits both the City and the majority of taxi drivers.





Methods

We conducted 331 surveys by approaching drivers at taxi stands throughout the City of San Diego. We surveyed drivers at 25 sites from La Jolla to the US-Mexican border, with no one site accounting for more than 14% of our sample. At most sites, we conducted surveys during both day and night shifts. Of the 331 survey participants, 311 were lease drivers, a significant number given that an analysis of the San Diego County Sheriff's list of licensed taxi drivers indicates there are approximately 1,850 lease drivers in the City of San Diego.

An analysis of information obtained from the sheriff and MTS allowed us to compare our sample to the total population of lease drivers in San Diego on the following measures: gender, zip code, ethnicity of lease drivers, radio dispatch distribution and size of company. We determined that our sample of lease drivers is representative.

Because owner-operators make up a small share of active taxi drivers, our sample only yielded 20 surveys of owner operators. Although those surveys provided useful information, the raw number was not sufficient to produce reliable analysis of owner-operator characteristics. While owner-operators comprised 6% of our sample, we calculate they make up 11% of licensed taxi drivers; it is not known how many are actively driving since most have lease drivers also licensed to drive their cabs. In the entire MTS region, (City of San Diego, El Cajon, Imperial Beach, La Mesa, Lemon Grove, Poway and Santee) there are 246 licensed taxi drivers who are registered as owners with MTS and 1,969 who are not (11% and 89% respectively). A different analysis of MTS ownership data resulted in a similar estimate of the percentage of drivers who are owners.

In addition to the surveys, we conducted 20 in-depth interviews, 17 with lease drivers and three with owners to gain a fuller picture of the issues. We also attended driver meetings, where issues were discussed among themselves and with the Mayor, to get a broader understanding of our results in the context of worker concerns.

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Design by Anoki Casey

¹ "Metered taxicab fares in 40 major U.S. cities," Washington Post, April 19, 2012, available at: <http://www.washingtonpost.com/wp-srv/special/business/taxi-fares-compared/>

² True North, "Taxicab Permitting Process Study Final Report, Prepared for the MTS," October 4, 2011, p. 33. Available at: http://docs.sandiego.gov/councilcomm_agendas_attach/2011/PSNS_111102_6a.pdf

³ Bureau of Labor Statistics, "National Census of Fatal Occupation Injuries, 2011, News Release." September 12, 2012. USDL- 12 -1888.

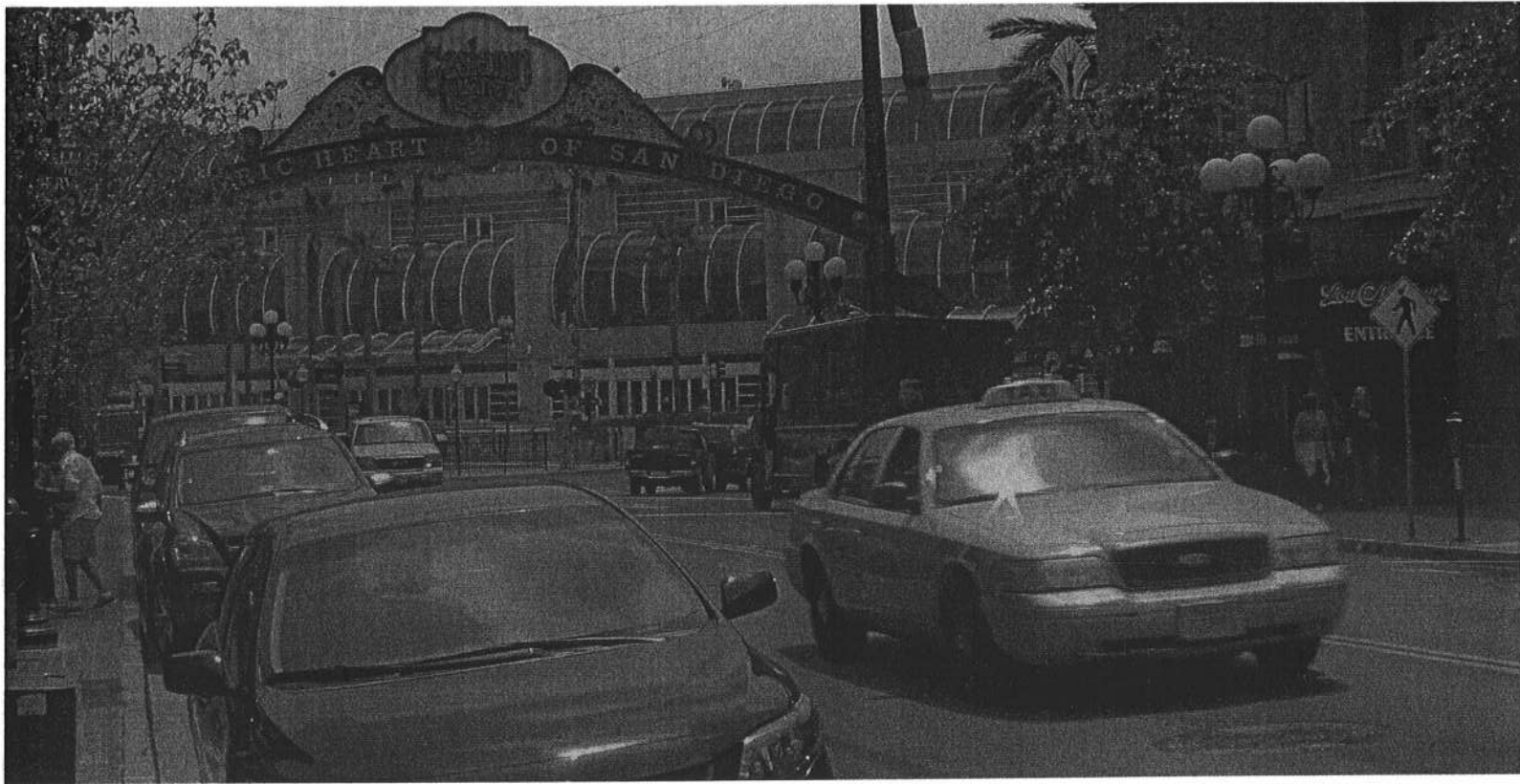
⁴ Davis, Kristina. "No Charges Against Cabdriver in Stingaree Crash," San Diego Union Tribune, May 4, 2011. Available at: <http://www.utsandiego.com/news/2011/may/04/no-charges-against-cab-driver-stingaree-crash/>

⁵ Agenda of Taxicab Advisory Committee, December 14, 2012. Detailed reports are attached to agenda. Available at: <http://www.sdmts.com/MTS/documents/12.14.12MTGPKG.pdf>

⁶ Forty-four percent is the average over the four reported sessions of inspections. Agenda of Taxicab Advisory Committee, December 14, 2012. Detailed reports are attached to agenda. Available at: <http://www.sdmts.com/MTS/documents/12.14.12MTGPKG.pdf>

⁷ True North, "Taxicab Permitting Process Study Final Report, Prepared for the MTS," October 4, 2011.

⁸ City of San Diego IBA Report Number: 12-10, Feb. 2012



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