

YAPRap

Newsletter of the Youth Action and Policy Association NSW Inc

Vol 15 No 5 May 2005

Fair go RailCorp!

YAPA's recent research into young people's experiences of railway transit officers shows that young people are not getting a fair deal. They are penalised in situations where older travellers are not, and they don't always get the protection which the Transit Officers are meant to provide. Jennifer Anne, YAPA's Policy and Training Officer, has just completed this report, *Young people and transit security*.

YAPA believes that law enforcement action in regards to young people should be

proportionate, educative, rehabilitative and deterrent in nature. Law enforcement action should take into account the unique social, cultural, financial and developmental circumstances of young people.

At the Big Day Out 2005 YAPA staff and volunteers gathered 276 surveys about young people's experience of security and policing on trains and other public transport.

The surveys gathered information about young people's age, sex, ethnicity and details of incidents (including when, where, who and what) and young people's opinions about how transit security treats young people.

Young people were assisted in filling in the surveys by a list describing various uniforms.

The surveys were not intended to provide statistical information, but rather to help build up a picture

of how young people experience their interaction with law enforcement on public transport, and provide insight into how relations between law enforcement and young people can be improved.

In addition to these surveys, this report draws on other case studies and information gathered about young people's experience of official security on trains and other public transport.

From this, we can make the following broad observations.

- Young people identify unfair age related targeting and discrimination as a serious concern in their interaction with transit security and law enforcement.

(continued on page 9)



In this issue:

News Hound	2
Youth helpz yoUth	3
NSW Ombudsman	4
National Hepatitis C project	6
What's On	13

Fair go RailCorp!

(continued from page 1)

- Young people are disproportionately and inappropriately adversely affected by fining for transit related offences.
- Young people are concerned generally about the administration of the transit security system including concerns around safety and procedural fairness.

1. Unfair targeting

Young people feel they are being unfairly targeted because they are young.

A number of respondents indicated either that they (or someone they knew) were targeted because of their age or that young people in general are targeted because of age.

Specific concern was also expressed about the targeting of certain sub-cultures (typically youth sub-cultures) – ie., goth, alternative, punk.

- *Sitting with friends doing nothing. Where targeted by transit officers for tickets. Happens all the time. (17 y/o male)*
- *Sitting with friends transit officers came up to me and asked for a ticket and I showed them my ticket, they checked and started asking for ID I showed them and there were girls sitting next to me and they didn't ask them (17 y/o male)*
- *On train with friend, friend dropped his skateboard, officers came up to us and were questioning us. And they didn't ask anyone else on the train. (17 y/o male)*
- *I was catching the train back from work (as usual) and was asked by*

a train security officer to check my ticket. I produced the ticket and it was all cool. Five minutes later I was asked again, then 10 minutes after that. 3 times in the one trip is a little excessive, especially when the middle aged/elderly DID NOT GET ASKED ONCE!!! (22 y/o female)

- *Hassling teenage commuter so much more than any other age group! Targeting us, even when we're doing the right thing. (18 y/o woman)*
- *The trains are forever late – apart from that the security guards checked tickets of select members of the carriage. He did not hassle older members – just teenagers and the young pregnant mother on the carriage. (15 y/o woman)*

Young people entitled to student concession travel feel the current system disadvantages them unfairly.

- *Victimised for forgetting my student ID and had concession ticket – 90c difference – broke. Marched out at Redfern by 4 traffic police – searched – wallet searched, housemates called and interrogated by them. (23 y/o woman)*
- *I didn't have a concession ticket but I had a child's ticket. Got abused by an officer (City Rail) because I didn't have a card when you have to be 16 to have one. (15 y/o male)*
- *Train guards bullied till I cried 'cos I could not find my concession card (but I have one), I was so upset because I really thought I had it – I was so stressed out I couldn't find it due to the stress of it. (19 y/o woman)*
- *When you forget your rail pass for*

school, if we are in uniform then we should be allowed on. Security guy yelled at us. (17 y/o woman)

Young people (like other commuters) experience and witness arbitrary and unofficial 'discretion'.

A number of young people recounted incidences where they had behaved in a way that merited a fine but were 'let off' with a warning. This is interesting given publicity by (former) Minister for Transport Michael Costa that Transit Officers are specifically denied by internal policy any power to exercise discretion in fining.

The experience and witnessing of arbitrary and unofficial discretion compounds the experience of feeling targeted on the basis of age.

Young people sometimes feel that security guards on trains unfairly target and harass young (and older) people of culturally and linguistically diverse backgrounds.

A number of respondents indicated that they had experienced specific incidents or had a general feeling that transit officers disproportionately target people of CALD backgrounds, and treated these people unfairly.

- *General 'Smart arse' attitude, particularly to ethnic and physically small friends, personally as a taller and stronger male, they act as if it is a threat to them and bully us and attempt to start fights*
- *Three security guards harassed a woman in a burka for a ticket she already had, but continued to question her.*

(continued over page)



Youth workers have expressed concern that certain ethnic groups were being specifically targeted: including Pacific Islander young people, African (specifically refugee background) young people and Indigenous young people.

2. Disproportionate adverse impact because of age

Inability to meet payment of fines

Young people have less access to resources to pay fines. Many young people report that their parents paid their fine or otherwise arranged for the fine to be dropped. This has the effect of penalising the parents vicariously for the offences of their children.

Young people in general receive low or no income, and rarely have an income under the age of 16. Their very low or non-existent income means that even a single fine at the minimum level represents a significant proportion of their income. This has wide-reaching implications, the most basic of which is that young people are faced with an enforceable debt that potentially draws their already scarce resources away from essential living expenses such as housing, and food. Further more, should young people fail to pay a fine, the referral and debt recovery process have a disproportionate adverse affect on young people because of their age.

- on my way home from work and uncover cop did me for drinking on

the train \$500 that was my whole wage for the week. (21 y/o male)

- I was stubbing out a cigarette in the platform bin when a transit officer came and spoke to me, I showed him my license, we chatted. No ticket or advice a ticket would be issued. Announcement didn't mention covered areas only trains, waiting rooms & underground platform. He issues a fine, to my old address (current was on back of license), 9 months later get a letter from office state debt recovery, license suspended, car rego cancelled, sheriff's office now after me, matter still in dispute with infringement P.B. \$400- now up to \$600

Young people and youth services have reported other worrying implications, including that the levying of fine and consequent debts against young people may begin a shift towards crime in that young people may resort to theft in order to meet the fines against them.

Young people are particularly adversely affected by the experience of multiple fining.

Many young people report receiving multiple fines – both in the one instant and over a period of time.

- \$400 (smoking) plus \$100 for giving them my full name that is in Spanish and they thought I was lying. (16 y/o male)

Youth workers have reported several instances where young people have accumulated several thousand dollars worth of fines. In all instances young people cannot pay off these fines. In many instances these young people are homeless or considered at risk of homelessness.

Double jeopardy: young people are subject to private sanctions in addition to fines

Young people are unique amongst commuters in that they do not typically have independent access to financial resources. They are also typically subject to the authority of their parents or guardian – particularly under the age of 18. A consequence of young people's dependence on their parents is young people are sometime also informally subject to sanction by their parent for transit related offences. One youth worker has reported that a 16 year old male client was severely beaten by his parents as a result of receiving a fine. His parents will not pay the fine. Other young people have reported being 'grounded' for incurring fines. That a second informal and unmonitored system of punishment exists beyond fining is unique to young people.

Lack of knowledge about appeals and defences

In many of the instances described by young people the Rail Safety Act or Regulations provides for defences to fines. Most young people surveyed clearly were not aware of their options for appealing or having fines set aside on the grounds of those defences.

3. Administration and fairness of current security system

There are two key issues here: firstly, a concern that young people



feel their safety as commuters is not adequately prioritised by security on trains, and secondly, the administration of the current system is substantively and procedurally unfair (in ways that are not related to age).

Young people sometimes feel unsafe and feel that officers do not provide 'security' on trains.

Transit Officers are responsible for the detection of offences against Rail regulations, apprehension of persons who commit behavioural offences including acts of vandalism to RailCorp property and security on trains. It is concerning that many young people recounted their experience of unsafe travel, where they or their friends were put at risk or came to harm and no security was available to assist them.

- A man came up to me on my way home from school and felt me up – my breasts – the security guard didn't believe me!! They didn't go after the guy, and he got away. (17 y/o woman)
- Once travelling from Sydney to Lithgow my bag was stolen. When I went to security they said not my problem and asked me for my ticket only it was in my bag. I received a fine as they didn't believe me. (21 y/o female)
- 2 boys came to me, but nothing happened. I still felt uncomfortable, cause if there would have happened anything there was no chance of getting help. (17 y/o female)
- In year 10 (2001), me and my friend got mugged while the transit officers were just sitting in the next carriage because they couldn't be bothered patrolling. No-one even bothered to check the security tapes to identify the guys (19 y/o male)
- Not enough security on night rail, was a bit scary the other night on my way home from work on train

late at night. I was near guards compartment but there was some threatening men about (22 y/o female)

- I was on the train with a friend and a weird guy laid down on the ground (on the train) to look up our skirts. (16 y/o female)
- We were on the train – about 5 of the girls – and a massive group of guys came up and started being really gross. Security came up just walked straight pass despite one of the girls telling the guys to get lost. (17 y/o woman)
- it actually happened to a good friend of mine, she is an 18 year old female (was 15 at the time) but long story short she was raped by two men and security nor police was nowhere to be seen! Before, during or after. In short security on trains suck!
- A friend of mine was on her own and an old man was the only other person on the carriage and he moved right next to her and was looking at her legs and whenever security would come he'd move, but when they'd left he'd move right back (22 y/o woman)

Young people feel that the 'system' lets them down, is poorly administered and poorly run.

This highlights concerns that the 'system' is unfair, but in ways that are not necessarily related to age related discrimination. This includes concerns that decisions to fine are arbitrary, that contradictory messages are received from different security and other transit employees, that security officers 'set up' and engage in other duplicitous and 'corrupt' behaviour.

- I was waiting for a train at Granville and felt like a smoke so I went to the uncovered area to have it and

I just happened to be under an extension for some sort of construction, the transit dude came and asked me to put it out and gave me a fine even though I asked before-hand and a guard said it was okay to smoke there. (16 y/o male)

- I had my feet on the seats and he came and gave me a ticket but then took my train ticket with him so I got another fine for not having a ticket. (21 y/o woman)
- Changed platforms smoking – busted – told to put out – couldn't litter, told wouldn't fine – but let go – went back to ask cop why he picked on smoking – two days later fined in mail. The other smokers didn't get fined
- Fined for having feet on seats, didn't have feet on seats at all.
- Security attacked me then charged me. After I was the one who called the police. (19 y/o woman)
- He asked for my ticket threw it out the window and said I didn't have a ticket
- I got fined late at night when they reckon I had my feet on the seat. I distinctly heard them say "that's my quota"
- Two of my friends got fines for having their feet on the seat – just on the metal part below the seat! How unfair! (19 y/o woman)

Where to from here?

These experiences suggest that the current transit security approach is inappropriate for young people, both procedurally and culturally.

In consultation with youth workers and young people, YAPA is developing a series of recommendations to improve the interaction between transit security and young people.

(continued over page)



Fair go RailCorp!

(continued from previous page)

Internal RailCorp Policy

- Increase and improve training in working with young people, including raising awareness of the specific issues of young people from diverse cultural backgrounds, including refugee and newly arrived immigrants. This training could be modelled on the current YAPA training package *Resource Manual and Self-Paced Learning Package for Shopping Centre Security Guards* and/or face to face training *Preventing Conflict with Young People* developed for security guards by Garner Clancey (CHD Partners).
- Increase the emphasis and training of guards in safety and security over and above revenue protection. Training should focus more on positive intervention and identification of potentially unsafe situations, particularly for young women commuters.
- Include details of the Legal Aid Hotline for under 18 year olds and Law Access with or on the fine notice itself. This would help young people to know of their legal appeal options and how to seek assistance in that process. This in turn could help reduce the number of fines defaulted on as fines would be removed or young people would have a better idea of their options in terms of payment.
- Amend and publicise internal policy so that it is clear that Transit Officers do have discretion to choose not to issue a fine.
- Introduce a system like on the

private bus providers that where a student forgets a concession card or is entitled to concession travel they can fill in a form declaring their entitlement, to be checked prior to fining for travelling with an invalid ticket.

Rail Safety Act

- Introduce options for alternative penalties and sanctions including: warnings, cautions and conferencing, as well as other non-financial penalties such as cleaning up trains.
- Set a minimum age for fining, below which young people cannot receive financial penalty for offences. We suggest an age minimum of 16 as prior to this age young people tend not be earning an independent income and hence bearing the financial penalty themselves.

Fines Act

- Remove options under s 65 of the *Fines Act* around enforcement action with respect to driver's licences. In particular there should be no action taken on young people under the age of 18 that would prevent them obtaining a licence.

Young Offenders Act

- The definition of 'prescribed officer' in s 21 of the *Young Offenders Act* should be extended to include transit officers. This would bring their powers in line with the principles of the *Young Offenders Act* and the

rehabilitative focus of the juvenile justice system in general.

Police Policy

- Police should be encouraged to exercise powers under the *Young Offenders Act* and pursue provided alternatives to fining.

What's YAPA doing?

Versions of this report have been discussed with the Attorney General's Crime Prevention Unit, the NSW Ombudsman and RailCorp (the people who employ the Transit Officers!).

YAPA has also been supporting networks and individual services who are advocating on behalf of individual clients and young people generally.

What can you do?

If you have ideas about how this report can be used or have further recommendations, case studies or opinions, please contact Jen on ext 8, (02) 9319 1100 or 1800 627 323 or email jen@yapa.org.au.

If you are a young person or youth worker who would like to anonymously feed back about an incident with security officers or police, go to www.yapa.org.au/youth/cop and tell us your story. 

