

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GREGORY T. ANGELO, *et al.*,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, *et al.*,

Defendants.

Civil Action No. 1:22-01878-RDM

DEFENDANTS' RESPONSE TO PLAINTIFFS'
STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND
DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS

I. Defendants' Response to Plaintiffs' Statement of Material Facts Not in Dispute

Defendants District of Columbia and Metropolitan Police Department Chief Robert J. Contee III submit the following response to Plaintiffs' Statement of Material Facts Not in Dispute (Pls.' SOF) [16]. *See* July 15, 2022 Minute Order. Defendants respond to the individually numbered paragraphs of Plaintiffs' SOF as follows.

1. The Metro system is a system of public transportation in the Washington, DC metropolitan area, including in the District of Columbia and parts of Maryland and Virginia. DC Code Section 7-2509.07(a)(6).

RESPONSE: Undisputed.

2. DC Code Section 7-2509.07(a)(6) prohibits DC licensed concealed carriers from carrying handguns on Metro vehicles or Metro stations within the District of Columbia. DC Code Section 7-2509.07(a)(6).

RESPONSE: This statement improperly asserts a legal conclusion, not facts. *See Gainor v. Optical Soc'y of Am., Inc.*, 206 F. Supp. 3d 290, 297 n.6 (D.D.C. 2016); Fed. R. Evid. 701.

3. The Metro system has no rules against firearm carry on Metro vehicles or in Metro stations. *See* <http://wmata.com/rider-guide/rules/>.

RESPONSE: Undisputed.

4. The Commonwealth of Virginia does not prohibit carry of handguns on public transportation vehicles, including on the Metro system by persons having a permit or license issued by any state authorizing the concealed carry of a handgun. *See generally* Code of Virginia.

RESPONSE: This statement improperly asserts a legal conclusion, not facts. *See Gainor*, 206 F. Supp. 3d at n.6; Fed. R. Evid. 701.

5. The State of Maryland does not prohibit carry of handguns on public transportation vehicles by persons holding a Maryland wear and carry permit. *See generally* Maryland Code.

RESPONSE: This statement improperly asserts a legal conclusion, not facts. *See Gainor*, 206 F. Supp. 3d at n.6; Fed. R. Evid. 701.

6. Plaintiff Angelo is a District of Columbia resident. ECF 6-2.

RESPONSE: Undisputed.

7. Plaintiff Angelo holds a District of Columbia license to carry a concealed handgun. ECF 6-2.

RESPONSE: Undisputed.

8. Plaintiff Angelo is a regular rider of the Metro system. ECF 6-2.

RESPONSE: Disputed to the extent that the word “regular” is undefined. *See* Ex. A, Pls.’ Answer to Defs.’ Interrog. No. 3 at 3.

9. Plaintiff Angelo would carry a handgun concealed for personal protection on the Metro system if DC Code Section 7-25509.07(a)(6) were invalidated as unconstitutional. ECF 6-2.

RESPONSE: Having not had the benefit of discovery, Defendants lack sufficient knowledge and information to respond to this statement.

10. Plaintiff Yzaguirre is a District of Columbia resident. ECF 6-3.

RESPONSE: Undisputed.

11. Plaintiff Yzaguirre holds a District of Columbia license to carry a concealed handgun. ECF 6-3.

RESPONSE: Undisputed.

12. Plaintiff Yzaguirre is a regular rider of the Metro system. ECF 6-3.

RESPONSE: Disputed to the extent that the word “regular” is undefined. *See* Ex. A, Interrog. No. 3 at 3.

13. Plaintiff Yzaguirre would carry a handgun concealed for personal protection on the Metro system if DC Code Section 7-25509.07(a)(6) were invalidated as unconstitutional. ECF 6-3.

RESPONSE: Having not had the benefit of discovery, Defendants lack sufficient knowledge and information to respond to this statement.

14. Plaintiff Miller is a Virginia resident. ECF 6-4.

RESPONSE: Undisputed.

15. Plaintiff Miller holds a District of Columbia license to carry a concealed handgun. ECF 6-4.

RESPONSE: Undisputed.

16. Plaintiff Miller is a regular rider of the Metro system. ECF 6-4.

RESPONSE: Disputed. Plaintiff Miller described his use of public transit in the District of Columbia as “very limited” from 2020 to 2022. Ex. A, Pls.’ Answer to Defs.’ Interrog. No. 3 at 3.

17. Plaintiff Miller would carry a handgun concealed for personal protection on the Metro system if DC Code Section 7-25509.07(a)(6) were invalidated as unconstitutional. ECF 6-4.

RESPONSE: Having not had the benefit of discovery, Defendants lack sufficient knowledge and information to respond to this statement.

18. Plaintiff Erickson is a District of Columbia resident. ECF 6-5.

RESPONSE: Undisputed.

19. Plaintiff Erickson holds a District of Columbia license to carry a concealed handgun. ECF 6-5.

RESPONSE: Undisputed.

20. Plaintiff Erickson is a regular rider of the Metro system. ECF 6-5.

RESPONSE: Disputed to the extent that the word “regular” is undefined. *See* Ex. A, Pls.’ Answer to Defs.’ Interrog. No. 3 at 4.

21. Plaintiff Erickson would carry a handgun for personal protection on the Metro system if DC Code Section 7-25509.07(a)(6) were invalidated as unconstitutional. ECF 6-5.

RESPONSE: Having not had the benefit of discovery, Defendants lack sufficient knowledge and information to respond to this statement.

22. The Metro system does not screen riders of Metro trains or Metro busses or persons entering Metro stations for weapons. Judicial Notice Requested.

RESPONSE: This statement is not supported by a citation to record evidence as required by Rule 56(c), and is in dispute, *see* Ex. EE; Ex. FF.

II. Defendants’ Statement of Undisputed Material Facts

1. The Washington Metropolitan Area Transit Authority (WMATA) operates Metrorail, Metrobus, and MetroAccess within the District of Columbia. Ex. B at 2, ¶ 3.

2. Metrorail is a heavy transit system with 91 stations in the District of Columbia, Maryland, and Virginia. Ex. B at 2, ¶ 4.

3. More than half of Metrorail’s stations serve federal facilities. Ex. B at 3, ¶ 10; Ex. H.

4. Prior to the COVID-19 pandemic, approximately one third of Metrorail’s peak period commuters were federal employees. Ex. B at 3, ¶ 11; *Revitalizing WMATA: Getting To A Culture Of Excellence: Hearing Before the House Committee on Oversight and Reform*, 117th Cong. 32 (2022) (statement of Rep. Shontel M. Brown, Ohio).

5. The Metrobus system includes approximately 11,500 bus stops throughout the District, Maryland, and Virginia. Ex. B at 4, ¶ 14.

6. A crowded Metrorail train has approximately 1,000 passengers on it. Ex. B at 3, ¶ 8.

7. Under some circumstances, there can be around 1,000 people on a Metrorail platform at a time. Ex. B at 3, ¶ 10.

8. Metrorail trains, Metrorail stations, and Metrobuses can become so crowded that passengers are packed tightly together on platforms, in train cars, or on buses. Ex. M at 2; Ex. N at 2; Ex. O; Ex. P at 3; Ex. Q at 2; Ex. R at 3; Ex. S at 2–3; Ex. T.

9. Dense crowding on Metrorail trains and platforms can lead to passengers jostling or otherwise coming into close physical contact with each other. Ex. I at 4; Ex. M at 2; Ex. N at 2; Ex. P at 3; Ex. S at 2–3; Ex. T.

10. MetroAccess is a shared ride service for individuals with qualifying disabilities traveling within WMATA's service area. Ex. B at 3, ¶ 10.

11. WMATA has its own police force, the Metro Transit Police Department (MTPD), that patrols throughout WMATA's service area. Ex. B at 5, ¶¶ 24, 26.

12. In fiscal year 2021, there were fewer than 8 incidents of crime per million passengers. Ex. U at 9.

13. The District Department of Transportation (DDOT) oversees the DC Circulator and DC Streetcar within the District of Columbia. Ex. F at 2, ¶ 3.

14. The DC Circulator is a bus system that operates six routes throughout the District of Columbia including a route around the National Mall. Ex. F at 2, ¶ 4; Ex. G.

15. DC Streetcar is a single route streetcar service. Ex. F at 3, ¶ 10.

16. The District of Columbia does not operate dedicated school buses. Ex. F at 3, ¶ 11; Ex. Y at 2.

17. Almost a third of District public school students travel three or more miles to school. Ex. Z.

18. DDOT runs the Kids Ride Free Program which allows District elementary and secondary school students to ride Metrobus, Metrorail, and the DC Circulator for free. Ex. F at 3, ¶ 11; D.C. Code § 35-243.

19. In the 2019-2020 school year, approximately 50,012 students participated in the Kids Ride Free Program. Ex. F at 4, ¶ 12.

20. In the 2021-2022 school year, 33,608 students participated in the Kids Ride Free Program. Ex. F at 4, ¶ 12.

21. Nearly 1 in 4 students in the District of Columbia use public transit to get to and from school every day. Ex. AA at 26.

22. During large special events in the District of Columbia, nearby streets are often closed. Ex. BB; Ex. CC; Ex. DD.

23. Prior to the pandemic, passengers took approximately one million trips on Metrorail, Metrobus, and MetroAccess combined on average each weekday. Ex. U at 3.

24. Before the COVID-19 pandemic, federal employees represented a third or more of Metrorail's peak-period commuters. Ex. B at 3, ¶ 11; *Revitalizing WMATA: Getting To A Culture Of Excellence: Hearing Before the House Committee on Oversight and Reform*, 117th Cong. 32 (2022) (statement of Rep. Shontel M. Brown, Ohio).

25. Passengers riding Metrorail or Metrobus may be drunken and rambunctious. See Ex. V; Ex. Z at 7; Ex. X.

26. Until around the mid-20th century, mass transit in the United States was operated primarily by private companies. Ex. J at 6, ¶ 17.

Date: September 16, 2022.

Respectfully Submitted,

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