



UNFAIR: Disparities in Fare Evasion Enforcement by Metro Police

I. Introduction and Background¹

Washington, DC law makes it a crime to ride the Metrorail or Metrobus without paying the fare. D.C. Official Code §35-216. Violation is “punishable by a fine of not more than \$300, by imprisonment for not more than ten days, or both.” D.C. Official Code §35-253. Beginning in 2017, the Washington Metropolitan Area Transit Authority (WMATA) began a policy of stricter enforcement of fare evasion violations. This strict enforcement has vastly increased the number of people who are stopped by the Metro Transit Police Department (Metro Police) for suspected fare evasion and given citations for violation of the law. Typically, the citations for failure to pay the two to six dollar fare requires the person to pay a \$50 fine. Because the violation is criminal, however, those who cannot afford to pay the fine may be arrested and subjected to jail time and suffer a criminal conviction. Although the program has been described as one of “zero-tolerance,” data provided by WMATA demonstrate it is not being administered fairly.

Among the most critical findings of our review of the data are:

- Metro Police stopped more than 30,000 people for suspected fare evasion between January 2016 and February 5, 2018 and issued more than 20,000 citations/summons for fare evasion.
- The number of people who were given citations more than doubled between 2016 and 2017, and the number of people stopped and given a warning or a citations/summons almost doubled. Additionally, the percentage of people who were given a citations/summons instead of a warning has significantly increased. In 2016, 59% of people stopped were given a citation/summons. In 2017, 80% of the people stopped were given a citation/summons.
- Ninety-one percent of citations/summons were issued to Black people – 72% Black men, 20% Black women and 46% Black youth (under 25 years of age). Black children as young as seven have been stopped.
- Metro Police targeted stops heavily used by youth of color with 15% of all stops in or around Gallery Place and 14% in or around the Anacostia station.

II. Methodology

The Washington Lawyers' Committee for Civil Rights and Urban Affairs (the Committee) in February 2018 submitted a Public Access to Records Policy request for data associated with

¹ This report was prepared by Marques Banks and Emily Gunston at the Washington Lawyers' Committee. The Committee wishes to express its gratitude for the work of the following organizations in developing the idea for this project and the related Public Access to Records Policy request: ACLU of DC; Black Lives Matter DC; KeepDC4Me; Collective Action for Safe Spaces; BYP100 DC; Stop Police Terror Project DC; and No Justice No Pride.

Metro Police’s enforcement of the fare evasion law between January 1, 2016 and February 5, 2018, including the race, age, and sex of anyone who was stopped or cited by Metro Police for fare evasion, and the location of each stop or citation. We requested the same data for all incidents of fare evasion that led to an arrest.

In June, WMATA provided the Committee with a log of warnings for “failure to pay” issued by Metro Police between January 1, 2016 and February 5, 2018, and a log of citations/summons² for “failure to pay” issued by Metro Police during that same time period. The logs contain the date the warning or citation/summons was issued; the sex, age, and race³ of the person to whom the warning or citation/summons was issued; the address at which it was issued; and whether the violation was associated with Metrobus or Metrorail. Using this data, the Committee determined at which rail station or bus stop the warning or citation/summons was issued.⁴

WMATA did not provide comparable information for incidents of fare evasion that led to an arrest but responded to us that it had identified over 2,000 arrests during this time period that stemmed from fare evasion contacts.⁵ WMATA also did not provide data regarding the number or people who Metro Police stopped or contacted for fare evasion but who were not cited or arrested.

We are unable to determine the total number of people who were stopped by Metro Police for fare evasion. The data is missing information for those who ultimately were arrested as a result of the contact (although we know that number is over 2,000) and those who were stopped but not cited or arrested. We also lack the demographic information for these two groups.

² In Maryland and Washington, DC, Metro Police issues citations; in Virginia, where fare evasion carries civil, rather than criminal, penalties, Metro Police issues summons. Only 1,886 summons were given in Virginia.

³ The data that WMATA provided identified each person as being Asian American/Alaskan Native, Asian, Asian/Pacific Islander, Black, Native Hawaiian or other Pacific Islander, unknown, or White. No persons were identified as being Hispanic. We do not know in which group people who are Hispanic are included.

⁴ A searchable spreadsheet of the data provided by Metro Police is available at washlaw.org.

⁵ Our request, as worded, required WMATA to review the narratives associated with each of these arrest to determine the reason that led Metro Police officers to arrest the person. WMATA asserted that the request was too burdensome. The Committee has sent a follow-up to WMATA requesting the number or incidents of fare evasion that led to an arrest, including the race, age, and sex of the riders arrested, the locations of the arrests, and the infractions for which those arrested were charged. WMATA has not yet provided that information. We will publish the data on our webpage once received.

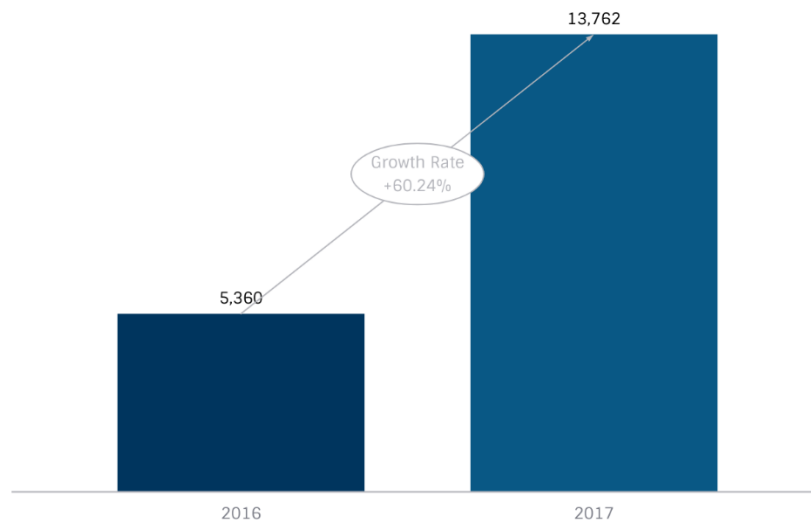
III. WMATA/Metro Police Enforcement Practices Target Black Transit Riders

Despite WMATA's stated policy of cracking down on all fare evasion, WMATA's own data suggests that the statute is not being enforced fairly. Rather, it shows that Metro Police are enforcing the statute almost exclusively against Black people, particularly in African-American neighborhoods or in parts of the City in which African Americans come in contact with Whites.

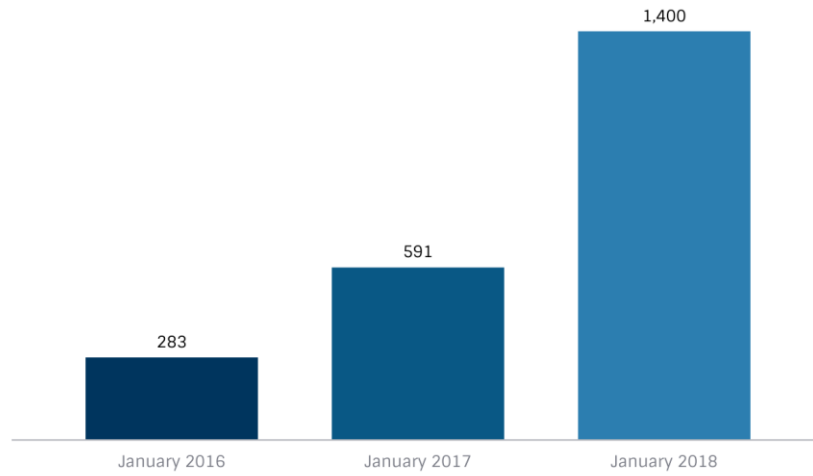
A. Metro Police Conducted More than 30,000 Stops for Fare Evasion in a 25 Month Period

Metro Police stopped more than 30,000 people for fare evasion between January 2016 and February 5, 2018. In 2016, Metro Police issued 5,360 citation/summons for fare evasion. In 2017, that number more than doubled, to 13,762. This is a continuing trend in 2018—Metro Police issued 1,400 citations/summons in January 2018 compared to 283 in January 2016.

Citations/Summons Given By Year



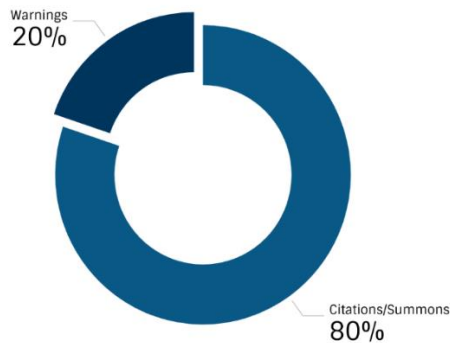
Citations/Summons Given in January By Year



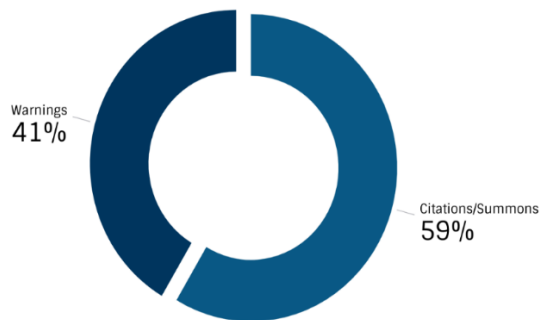
B. Rate of Citations Rising Faster than Warnings

In 2017, Metro Police conducted 17,161 stops that resulted in either a warning or citation. 80% of them resulted in a citation/summons. In 2016, the total number of stops was far lower, and only 59% of them resulted in a citations/summons. And WMATA told us that, between January 2016 and February 5, 2018, Metro Police arrested more than 2,000 people after incidents that began with a fare evasion stop.

2017 Stops



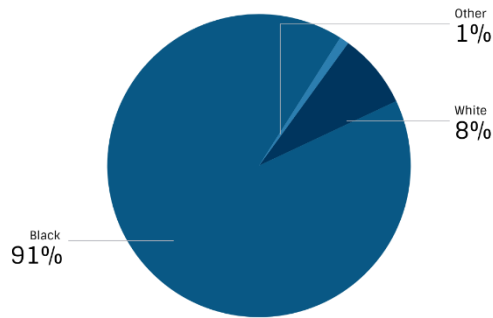
2016 Stops



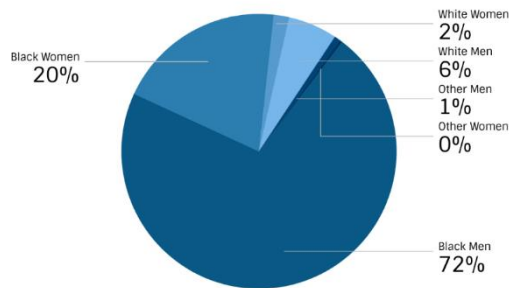
C. The Data Reveal Dramatic Disparities in the Race of Those Stopped and Ticketed

The racial disparities of those stops are alarming. Even though Black people make up only about 50% of the population of DC, 91% percent of the citations/summons were issued to Black people and only 8% to White people. Black men were the most impacted, accounting for 72% of the citations/summons given. More than half of the Black people who were issued warnings or citations/summons were under the age of 25, and most of those (74%) were men. There is no evidence that Black people commit this crime at a higher rate than White people.

Citations/Summons Given By Race

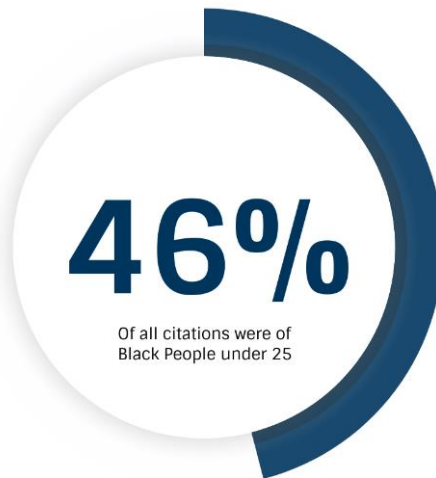


Citations/Summons Given By Race and Gender



D. Young People Are Targeted

Forty-six percent of all of the citations issued by Metro Police for failure to pay were issued to black people under 25 years old.

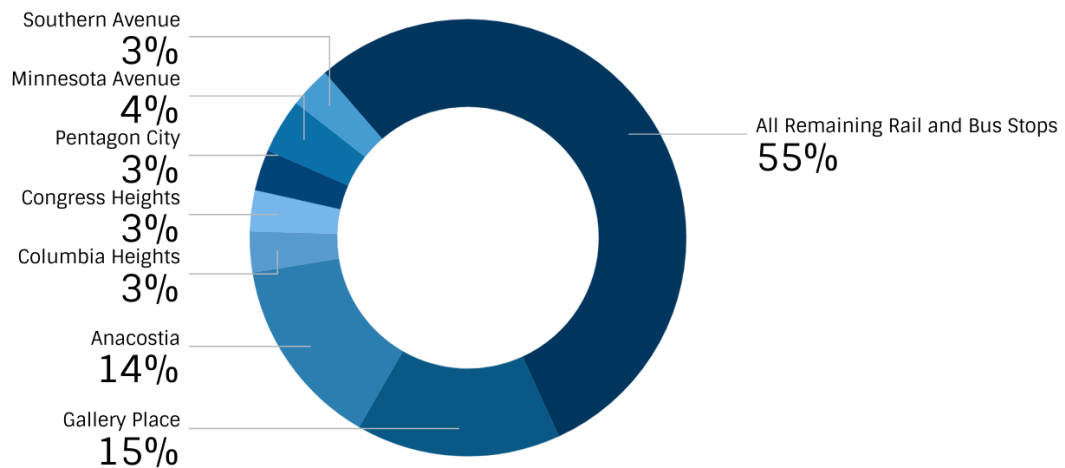


E. A Few Metro Stops Account for a Disproportionate Numbers of Stops

Nearly 30% of the stops occurred in or around just two Metrorail stations: Gallery Place and Anacostia. Metro Police issued 4,292 warning or citations/summons near the Gallery Place Metro (15% of the stops) and 3,977 warning or citations/summons near Anacostia (14% of the stops). 95% of the people issued warnings or citations/summons at these two stops were Black. More than one third of the stops occurred east of the Anacostia River, where the highest percentage of African Americans reside.

The focus of enforcement efforts at the Gallery Place station is particularly troubling and telling. Gallery Place is a major crossing point for Metro's Red line and the Green line—it is an area where African Americans, particularly young African Americans, and Whites come into contact with one another. It also is a gentrifying area of the City, and one in which other efforts by law enforcement against young people of color have been focused. The focus on criminally punishing Black people for fare evasion in this area is yet another way in which young African-American men are being told that they are not welcome in their City.

All stops in which Warning or Citation/Summons were given by Bus and Rail Stop

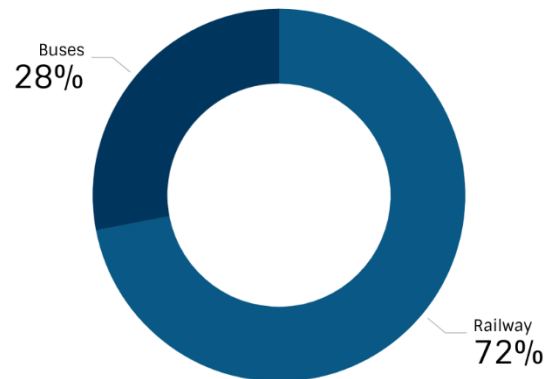


These figures include both Metrobus and Metrorail riders.

Of the 55% of stops that occurred at the remaining rail and bus stops, less than 1% of the stops occurred at each stop

More than 70% of all the stops that resulted in either a warning or citation occurred at Metrorail stations. The remaining stops occurred along bus routes.

Warnings and Citations/Summons Given by Location



IV. Consequences of Criminalizing Fare Evasion

Under current District law, fare evasion is treated as a criminal offense. The consequence of a conviction extend well-beyond the \$50 fine imposed and can impact employment and other opportunities. A high and unjust price to pay for a \$2 to \$6 Metro ride.

More than 2,000 people have been arrested since January 2016 after a stop that was initiated because of fare evasion. The criminalization of fare evasion also exposes people to collateral consequences stemming from the arrest and conviction, including immigration and parole consequences. Additionally, recent media reports indicate Metro Police has used serious force while effectuating some arrests.

Moreover, by criminalizing fare evasion, Metro Police are incented to use the offense as a pretext to stop and search with the prospect of recovering contraband and making an arrest. The targeting of African-American men with low-level crimes as a pretext stop is well-documented in the District of Columbia.⁶

In July 2017, the Fare Evasion Decriminalization Act was introduced before the DC Council with the support of 9 out of 13 councilmembers. The Fare Evasion Decriminalization Act would make fare evasion a civil, rather than criminal, offense and would reduce the maximum fine to \$100 and eliminate the prospect of jail time. This is an important step.

Decriminalizing fare evasion—treating it more like a parking ticket—is a sensible first step in ensuring that the laws are enforced equitably and that people do not suffer the devastating, life-long consequences of criminal penalties simply because they are low income.

ABOUT THE WASHINGTON LAWYERS' COMMITTEE: *The Washington Lawyers' Committee for Civil Rights and Urban Affairs was established in 1968 to provide pro bono legal services to address issues of discrimination and entrenched poverty. Since then, it has successfully handled thousands of civil rights cases on behalf of individuals and groups in the areas of fair housing, equal employment opportunity, public accommodations, immigrant rights, disability rights, public education, and prisoners' rights. For more information, please visit www.washlaw.org.*

⁶ See, e.g., Racial Disparities in Arrests in the District of Columbia 2009-2011: Implications for Civil Rights and criminal Justice in the Nation's Capital. http://www.washlaw.org/pdf/wlc_report_racial_disparities.pdf