



**WASHINGTON LAWYERS' COMMITTEE**  
**FOR CIVIL RIGHTS AND URBAN AFFAIRS**

**Written Testimony of Carlos Andino, Associate Counsel, Washington Lawyers' Committee  
for Civil Rights and Urban Affairs  
Before the Council of the District of Columbia, Committee on the Judiciary and Public  
Safety  
Concerning the Metro Safety Amendment Act of 2023**

**October 11, 2023**

The Washington Lawyers' Committee for Civil Rights and Urban Affairs<sup>1</sup> recommends that the Council reject the Metro Safety Act of 2023 (the "Bill"). While improving safety on Metrorail and buses should be a priority for the Council, this Bill has nothing to do with safety. Rather, it will lead to less safe travel conditions for DC residents of color and perpetuate the criminalization of poverty.

The introduction of the Metro Safety Act of 2023 illustrates a narrative that fare evasion is causally linked to violent crimes, like robberies and assaults, that draw people away from public transportation.<sup>2</sup> Additionally, the Bill asserts a narrative that an increase in fare evasion rates will push the Metro off a financial cliff.<sup>3</sup> Neither narrative is supported by any evidence. The Bill purports to solve safety and financial by increasing police officers' powers to detain suspected fare evaders who refuse to provide their home address and to issue additional civil fines. However, such increased police powers will have no impact on solving Metro's problems.

**I. The Real Impact of the Metro Safety Amendment Act of 2023 Will Be Decreased Safety and the Further Criminalization of Poverty and People of Color**

The real impact of the Metro Safety Amendment Act of 2023 will be a decrease in safety for people living in poverty and People of Color. As this Council has recognized, fare evasion enforcement has predominantly impacted People of Color in the District.<sup>4</sup> Allowing police to detain individuals for fare evasion will undoubtedly lead to more People of Color being arrested. Police will use fare enforcement as yet another pretext tool to stop and harass residents of color that are not suspected of any serious crimes and to escalate interactions into full blown custody. Studies have shown People of Color, especially Black Americans regardless of guilt, who are

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<sup>1</sup> The Washington Lawyers' Committee for Civil Rights and Urban Affairs works to create legal, economic and social equity through litigation, client and public education and public policy advocacy. While we fight discrimination against all people, we recognize the central role that current and historic race discrimination plays in sustaining inequity and recognize the critical importance of identifying, exposing, combating and dismantling the systems that sustain racial oppression. We partner with individuals and communities facing discrimination and with the legal community to achieve justice.

<sup>2</sup> See, "WMATA has repeatedly stressed the correlation between fare evasion and other, more serious crimes committed in the Metro system." Page 1. June 8, 2023. Introduction, Metro Safety Amendment Act of 2023.

<sup>3</sup> *Id.* "Aside from public safety concerns, fare evasion poses direct and indirect financial risks for WMATA as the transit agency approaches a "fiscal cliff" when federal pandemic aid runs out."

<sup>4</sup> Siddiqui, F. (2018, December 6). D.C. Council decriminalizes Metro Fare Evasion: "I'm sad that's Metro's losing money, but I'm more sad about what's happening to black people." The Washington Post. <https://www.washingtonpost.com/transportation/2018/12/05/dc-council-decriminalizes-metro-fare-evasion-giving-its-final-approval-contested-measure/>. (Council member Robert C. White Jr. (D-At Large) said, referring to the fact that 91 percent of fare evasion stops occur against Black residents. "I'm sad that's Metro's losing money, but I'm more sad about what's happening to black people.")

placed in custody are more likely to face severe criminal consequences.<sup>5</sup> These consequences include incarceration, physical injuries, and even death. The potential risk of harm is also significantly higher for DC residents without home addresses as their unhoused status will essentially render them unable to leave police custody.<sup>6</sup> These harmful consequences are especially worrying given that the Metro is currently being patrolled by Special Police Officers, a group of undertrained officers known for practices that result in excessive force and severe injuries for residents of color.<sup>7</sup>

This Council decriminalized fare evasion when it recognized enforcement was not worth the severe harm this City was placing on people living in poverty and People of Color.<sup>8</sup> Those facts have not changed. Under the Metro Safety Amendment Act of 2023, enforcement will not end with a fine. More DC residents will be seized by police. More residents living in poverty will be arrested. More People of Color will be physically harmed. The costs on DC residents' lives will not be worth the benefits. Especially when the benefits of this Bill have nothing to do with safety or saving WMATA from financial ruin.

## II. Fare Evasion Enforcement Has Nothing to Do with Safety

The Bill's supporters offer no evidence linking serious crimes and fare evasion. Rather, supporters of the Bill make a dangerous assumption: those who fare evade must be more inclined to commit violent crimes.<sup>9</sup> To support this assumption, the Bill cites only a single report that states New York City police officers "regularly" match descriptions of serious criminals with images of "what appears to be" fare evaders.<sup>10</sup> This is a far stretch from the kind of evidence-based approach this Council calls on to respond to crime.

The reality is that the overwhelming majority of fare evaders never go on to commit serious crimes in the Metro.<sup>11</sup> Further, there is no evidence to suggest stricter fare evasion enforcement will affect, never mind halt, serious crimes. Without real evidence to the contrary, we should not

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<sup>5</sup> Schwartz GL, Jahn JL (2020) Mapping fatal police violence across U.S. metropolitan areas: Overall rates and racial/ethnic inequities, 2013-2017. *PLoS ONE* 15(6): e0229686. <https://doi.org/10.1371/journal.pone.0229686>.

<sup>6</sup> The Metro Safety Amendment Act of 2023 allows police to detain individuals suspected of fare evasion who refuse or are unable to provide a permanent address. The Bill is silent as to how police detainment ends when a person is unable to provide an address due to being unhoused.

<sup>7</sup> See, Written Testimony of Carlos Andino, Equal Justice Works Fellow, Washington Lawyers' Committee for Civil Rights and Urban Affairs Before the Council of the District of Columbia, Committee on the Judiciary and Public Safety and the Committee of the Whole Concerning the D.C. Police Reform Commission's Recommendations on Special Police Officers in the District of Columbia. <https://www.washlaw.org/wp-content/uploads/2021/05/Carlos-Andino-Testimony-Accessible.pdf>.

<sup>8</sup> Siddiqui, F. (2018, December 6). D.C. Council decriminalizes Metro Fare Evasion: "I'm sad that's Metro's losing money, but I'm more sad about what's happening to black people." *The Washington Post*. <https://www.washingtonpost.com/transportation/2018/12/05/dc-council-decriminalizes-metro-fare-evasion-giving-its-final-approval-contested-measure/>.

<sup>9</sup> *Id.* Page 1.

<sup>10</sup> *Id.*

<sup>11</sup> WMATA estimates 9 million fare evasions occurred in 2022, with 195 aggravated assaults occurring in the same time period. Meanwhile, there were 10 million estimated fare evaders in 2018, with 105 aggravated assaults that same year. At the very least, this suggests that fare evasions and the number of aggravated assaults have had an inversed relationship over the last five (5) years.

assume that fare evaders are dangerous or a threat to our society. Especially when such assumption will quickly lead to increased physical and criminal harm to our City's People of Color and those living in poverty.

### III. Fare Evasion Will Not be Metro's Financial End

WMATA is facing a \$750 million financial deficit.<sup>12</sup> Increased fare enforcement will not save WMATA. According to WMATA's own study, fare evasion accounted for up to \$10 million in lost revenue last year.<sup>13</sup> When identifying drivers for the upcoming financial cliff, WMATA does not cite fare evasion.<sup>14</sup> Nor does WMATA cite fare enforcement in its plan to save itself from financial ruin.<sup>15</sup> The reality is, not even WMATA says fare enforcement will save it from financial ruin.

WMATA has pointed to direct ways other jurisdictions have managed to save their transit systems from financial ruin.<sup>16</sup> Real solutions require this Council to consider taking larger funding projects seriously, and to not be distracted by schemes that do not address the real issue. Even with perfect fare enforcement, revenue generated will come nowhere near the funds needed to save the District's metro system. This Council should not use fare evaders as scapegoats for WMATA's problem, and instead focus on real, evidence-based solutions.

For these reasons, The Washington Lawyer's Committee for Civil Rights and Urban Affairs recommends that the Council vote down the Metro Safety Act of 2023.

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<sup>12</sup> WP Company. (2022, May 12). Metro ridership rises, but not enough to alter financial projections. The Washington Post. <https://www.washingtonpost.com/transportation/2022/05/12/metro-rail-bus-ridership-wmata/>.

<sup>13</sup> WMATA Finance and Capital Committee, Quarterly Fare Evasion Update (Feb. 10, 2022), at 46, [available here](#).

<sup>14</sup> Future financial planning FY2025-2035. Washington Area Metro Transit Authority . (2023, June 22), at 7. <https://wmata.com/about/board/meetings/board-pdfs/upload/3A-Future-Financial-Planning-0621.pdf>.

<sup>15</sup> *Id.* at 24

<sup>16</sup> *Id.*