WHEN THE POLICE IGNORE THE LAW
Racialized Policing at Turnstile

by Harold Stolper
WHY IS THE NYPD BREAKING THE LAW AND WITHHOLDING ENFORCEMENT DATA ON FARE EVASION?

One thing we know: if you’re black and stopped for fare evasion you are 4 times more likely to be arrested than if you’re white.
Low-income New Yorkers of color don’t need to see a spreadsheet of fare evasion arrests to understand a basic reality for subway commuters: the NYPD disproportionately targets low-income, black and brown communities for fare evasion enforcement (among other low-level, non-violent offenses)—especially young black men.

But politicians often do need to see such disparities documented in clear terms. Which is what happened in New York City in January of this year, after research documented disproportionately high subway fare evasion arrest rates in lower-income, predominantly black communities of Brooklyn. Following this analysis, the New York City Council passed Local Law 47 requiring the NYPD to report detailed quarterly information on their subway fare evasion enforcement actions citywide, with the first reporting deadline on January 30, 2018. The NYPD failed to publicly report any data on January 30th, and then missed the deadlines for the next two quarters. In response, the City Council Member who sponsored the legislation (Rory Lancman – Queens) and the Community Service Society filed a lawsuit to force the NYPD to fully comply with Local Law 47.

The intent of the law was to provide public transparency of fare evasion enforcement decisions, a necessary step towards holding the NYPD accountable for a history of racialized transit policing that has served as a cornerstone of broken windows policing since the 1990s. Targeting residents in poor communities of color for arrest at the subway turnstile—literally the gateway to economic opportunity in New York City—is a very simple recipe for the widespread criminalization of poverty and economic disenfranchisement of minority communities.

On October 4, the NYPD finally released a limited subset of data on their fare evasion enforcement actions for the past three quarters. While each quarterly data release contains nine separate spreadsheets of information, they don’t include the most critical information for 462 out of the city’s 472 subway stations: how many arrests were made and summonses issued at each station (arrest totals are only reported for the top 10 stations in terms of quarterly arrest and summons totals). The data does include demographic breakdowns of quarterly arrest and summons totals for the top 100 stations (ignoring the other 372), but it is reported in a way that makes it impossible to know the total number of enforcement actions at stations 11-100. Moreover, the data fails to differentiate between subway stations with the same name. For example, for the second quarter of 2018 there are three stations listed as “125 Street” without any additional lo-
When the Police Ignore the Law

period. (Note: the documented drop in arrests should continue as the city phases in the Fair Fares program in the coming year; the availability of half-fare MetroCards to eligible adults will make it far easier for the neediest New Yorkers to pay the fare rather than risk jumping the turnstile because they just don’t have enough money in their pockets to make ends meet.) Yet despite the large drop in enforcement activity, the racial disparity remains appallingly stark—people of color represented almost 94 percent of fare evasion arrests for which race was determined.

The downward trend in subway fare evasion arrests is strongest in Manhattan, where District Attorney Cyrus Vance announced that his office would no longer be prosecuting most fare eva-

There is some good news to report: the data confirm a substantial drop in citywide subway fare evasion arrests of almost 70 percent from the last quarter of 2017 to the second quarter of 2018. Civil summonses fell by 7.5 percent over this period. (Note: the documented drop in arrests should continue as the city phases in the Fair Fares program in the coming year; the availability of half-fare MetroCards to eligible adults will make it far easier for the neediest New Yorkers to pay the fare rather than risk jumping the turnstile because they just don’t have enough money in their pockets to make ends meet.) Yet despite the large drop in enforcement activity, the racial disparity remains appallingly stark—people of color represented almost 94 percent of fare evasion arrests for which race was determined.

The downward trend in subway fare evasion arrests is strongest in Manhattan, where District Attorney Cyrus Vance announced that his office would no longer be prosecuting most fare eva-

There is some good news to report: the data confirm a substantial drop in citywide subway fare evasion arrests of almost 70 percent from the last quarter of 2017 to the second quarter of 2018. Civil summonses fell by 7.5 percent over this period. (Note: the documented drop in arrests should continue as the city phases in the Fair Fares program in the coming year; the availability of half-fare MetroCards to eligible adults will make it far easier for the neediest New Yorkers to pay the fare rather than risk jumping the turnstile because they just don’t have enough money in their pockets to make ends meet.) Yet despite the large drop in enforcement activity, the racial disparity remains appallingly stark—people of color represented almost 94 percent of fare evasion arrests for which race was determined.

There is some good news to report: the data confirm a substantial drop in citywide subway fare evasion arrests of almost 70 percent from the last quarter of 2017 to the second quarter of 2018. Civil summonses fell by 7.5 percent over this period. (Note: the documented drop in arrests should continue as the city phases in the Fair Fares program in the coming year; the availability of half-fare MetroCards to eligible adults will make it far easier for the neediest New Yorkers to pay the fare rather than risk jumping the turnstile because they just don’t have enough money in their pockets to make ends meet.) Yet despite the large drop in enforcement activity, the racial disparity remains appallingly stark—people of color represented almost 94 percent of fare evasion arrests for which race was determined.
sion charges—suggestive evidence that prosecutorial policies can help reduce the extent of broken windows-style policing. On the other hand, the downward trend is weakest in Brooklyn, where racialized fare evasion enforcement has been plainly documented, which is home to more black residents living under the federal poverty line than any other borough (and more black residents living in poverty than Manhattan and Queens combined).

Despite the shortcomings of the data, the availability of summons totals by race does allow us to document another dimension of racialized enforcement: fare evading while white is much more likely to end in a summons than an arrest, compared to fare evaders of color. Citywide, 78 percent of civil summonses for subway fare evasion were issued to people of color, while almost 94 percent of fare evasion arrests were people of color. Said another way, only three percent of white individuals stopped for subway fare evasion were arrested, compared to more than 14 percent of black individuals. This disparity grows

---

DESPITE THE LARGE DROP IN ENFORCEMENT ACTIVITY, THE RACIAL DISPARITY REMAINS APPALLINGLY STARK—PEOPLE OF COLOR REPRESENTED ALMOST 94 PERCENT OF FARE EVASION ARRESTS FOR WHICH RACE WAS DETERMINED.
When the Police Ignore the Law

transparent reporting about who the NYPD is arresting for fare evasion, and where. Yet because it does not contain arrest or summons totals for each station, the data released by the NYPD fails to provide this transparency for virtually all of the most heavily policed communities.

For example, why did the Bronx experience a 34 percent increase in summonses between the first and second quarters of 2018, while all other boroughs saw drops in both arrest and summons totals? Was this increase driven by heightened enforcement at certain stations, in certain communities? The data released by the NYPD makes even wider when comparing the experiences of different racial groups across boroughs: blacks stopped for fare evasion in Brooklyn are 30 times more likely to be arrested than whites stopped for fare evasion in Manhattan. And if white individuals are more likely to be let off with a warning rather than a civil summons, then these numbers only understate the racial arrest disparity.

For white individuals, fare evasion is thus a far less risky endeavor—a civil summons comes with a $100 fine (a hefty sum for individuals who didn’t have $2.75 to spare for the fare), but no risk of jail time or a criminal record that can limit access to jobs and public housing for years to come, and even serve as grounds for deportation.

This hugely polarized enforcement is likely not just the byproduct of individually held racial biases and police discretion, but at least in part due to NYPD departmental policies. For years, NYPD policy has been to arrest so-called “transit recidivists,” as determined from internal NYPD records of prior arrests and summonses (including those dismissed or terminated in favor of the accused). The transit recidivist database “virtually ensures that Black and Latinx communities continue to bear the brunt of aggressive order-maintenance policing,” according to an amicus brief filed by a host of public interest groups earlier this year.

The very existence of this transit recidivist database reinforces the need for transparent reporting about who the NYPD is arresting for fare evasion, and where. Yet because it does not contain arrest or summons totals for each station, the data released by the NYPD fails to provide this transparency for virtually all of the most heavily policed communities.
it impossible to tell. We just don’t know what station-level patterns the NYPD is hiding by failing to report enforcement action totals beyond the top 10 stations each quarter.

What is patently clear, however, is that despite considerable progress towards reducing the number of fare evasion arrests, racial disparities remain just as prevalent as before. Among recorded stops for fare evasion, white fare evaders are far more likely to get off with a civil summons and avoid arrest. An overwhelming number of those arrested for fare evasion citywide continue to be people of color.

Transparency is often a necessary (though not always sufficient) step towards increasing police accountability. For example, when used properly, police body cameras have the potential to serve as a valuable oversight tool. So does the public

---

**BLACKS STOPPED FOR FARE EVASION IN BROOKLYN ARE 30 TIMES MORE LIKELY TO BE ARRESTED THAN WHITES STOPPED FOR FARE EVASION IN MANHATTAN.**
Community Service Society of New York

Executive Officers

David R. Jones
President and Chief Executive Officer

Steven L. Krause
Executive Vice President and Chief Operating Officer

2018–2019 Board of Trustees

Deborah M. Sale
Chairperson

Nicholas A. Gravante, Jr., Esq.
Vice Chairperson

Ralph Da Costa-Núñez, Ph.D.
Treasurer

Micah C. Lasher
Secretary

Terry Agriss
Alexander N. Barrett
Karen Y. Bitar, Esq.
Judy Chambers
Richard W. Eaddy
Florence H. Frucher
Patricia Glazer
Hon. Betsy Gotbaum
Khaleed Haram
Joseph J. Haslip
Michael Horodniceanu, Ph.D.
Magda Jimenez Train, Esq.
Khary Lazarre-White, Esq.
Mark E. Lieberman
Rosalie Margolis, Esq.
Robert G. McCabe
Joyce L. Miller

Geoffrey Newman
Carol L. O’Neale
Regan Kelley Orillac
David J. Pollak
Margarita Rosa, Esq.
Donald W. Savelson, Esq.
Maria Eisland Sprie, Esq.
Ken Sunshine
Phyllis Taylor
Jeffery J. Weaver
Jerry Webman
Abby Wenzel, Esq.
Mark A. Willis

Honorary Life Trustees

Stephen R. Aiello, Ph.D.
Hon. David N. Dinkins
Marian S. Heiskell