



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

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My name is Yung-Mi Lee and I am a Supervising Attorney in the Criminal Defense practice of Brooklyn Defender Services (BDS). Our organization provides multi-disciplinary and client-centered criminal defense, family defense, immigration, civil legal services, social work support and advocacy to tens of thousands of indigent Brooklyn residents every year. I thank the New York City Council and, in particular, Transportation Committee Chair Ydanis Rodriguez for this opportunity to testify on the proposed fare hikes.

Rising fares hurt all low-income New Yorkers, and our clients are among those who have been hit the hardest. Every year, thousands of them—all of whom are, by definition, indigent—are arrested for fare evasion and face immediate and lasting punishment at significant costs to the individuals involved, their families, and our city as a whole. In fact, fare evasion was the top arrest charge in New York City in 2015, with 29,199 arrests and an additional 123,921 summonses—an average of 419 police interventions per day. Of those arrested, an overwhelming 92% were people of color. Many are detained on Rikers Island, the horrors of which are well-documented, at a cost of approximately \$500 per day simply because they might not be able to afford a \$2.75 subway fare. People can lose their children and jobs, and, now more than ever, be deported for this crime of poverty. An Executive Order issued by the President on January 25

lists anyone merely arrested, regardless of whether their case will later be dismissed or adjourned in contemplation of dismissal, as a priority for immigration enforcement.¹ NYPD collects fingerprints from those it arrests and transmits them through the state to the federal government, which the latter uses to track, arrest, detain and deport immigrant New Yorkers. Increasing fares could exacerbate this dynamic.

Consider some recent clients at Brooklyn Defender Services: Mr. M, an Army veteran, was stopped on his way to a job interview. Mr. W was homeless, and his shelter did not provide MetroCards. Mr. R was on his way to get his public assistance restored after an error by the Human Resources Administration resulted in a suspension of his benefits. All of these individuals were arrested for fare evasion, detained overnight in a filthy holding cell, and churned through the criminal arraignment process. All of them are black and indigent. Taxpayer funds wasted on punishing them for their poverty only made them less able to afford the fares.

According to a report by the Community Service Society (CSS), 58% of very low-income New Yorkers rely on subways and buses—more than any other economic group—yet many cannot afford the rising costs of transit. In other words, fare evasion is increasingly an economic necessity for many New Yorkers. For many others who can afford a MetroCard, the cost is still a hardship. A CSS survey found that the high cost of MetroCards prohibits many low-income New Yorkers from getting medical care and seeking jobs further from home, thus severely limiting their economic mobility.²

There are two critical steps that New York City and State can take to end this injustice. First, the State should eliminate criminal penalties for Theft of Services as it relates to fare evasion. Violators would continue to be subject to Transit Adjudication Bureau summonses, though they should be reduced to match the penalty ratios of commuter rails and tolls.³ In the interim, local law enforcement should end the arrests and prosecution of people accused of fare evasion and instead focus on prevention measures. The second step is for the City and State to reinvest the resulting savings in making public transit a viable resource for all New Yorkers. Brooklyn Defender Services is proud to join the Riders Alliance, the Community Service Society, a majority of Councilmembers and many others in calling on the Mayor to fund #FairFares, a plan for half-price fares for those meeting certain income eligibility criteria. To benefit the maximum number of people in need, these criteria should be as inclusive as possible. This modest financial support would go a long way toward helping New Yorkers who are struggling to get to job interviews, work, school, or anywhere else in the city. We also recommend eliminating time limitations on student MetroCards to encourage young people to pursue as many activities as possible and prevent countless unnecessary arrests. Students should be able to use their MetroCards as needed without police intervention of any kind.

¹ <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>

² <http://www.cssny.org/campaigns/entry/transit4all>

³ The current \$100 fine for fare evasion is more than 36 times the fare. In contrast, riders who board the Long Island Railroad without tickets are charged a relatively modest penalty fee when purchasing one from a conductor. Riders who cannot pay sign a promise-to-pay form. Likewise, those who lack the cash to pay tolls may do so after the fact or face fees that, if unpaid, are sent to a collections agency – not law enforcement. Drivers passing through E-ZPass tolls without the requisite device receive a notice to pay and only owe the original toll amount if they pay within 30 days or \$25 to \$50 if they pay within 60 days.

Each misdemeanor prosecution costs an estimated \$1,750, according to the Police Reform Organizing Project. By that estimate, New York spent more than \$51 million prosecuting fare evasion cases in 2015, or about \$1 million per week. Taxpayers would be better served if this money were redirected toward helping—rather than punishing—those in need. Moreover, under #FairFares, low-income commuters' savings would likely be reinvested in their own communities and other New York businesses, a boon for our economy. I thank the majority of Councilmembers who already support reduced-fare options for low-income new Yorkers and I respectfully urge the entire Council to make it a priority in this year's budget negotiations.

New York can and must do better. Public transit should be the great equalizer in New York—not a feeder for the criminal justice system.