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shipped to his or her county's jail to await court on the IPT in that jurisdiction.

"They just get passed back and forth from one jail to another," she says.

While public defenders Rothman, Fox and O'Connor say IPT charges are burdening the courts and wasting resources, there isn't any comprehensive data available on just how much these types of cases are costing Oregon courts.

According to Transit Police Division spokesman Sgt. Matt Engen, 840 IPTs were issued metro-wide in 2014. In Portland, 533 were issued. Engen says he would "not argue" with the statement that most IPTs are issued for entering TriMet property while under exclusion.

Engen says IPTs aren't issued for non-payment of fare alone, but can be issued if someone refuses to leave transit property after being told to do so, as that may delay the train or bus from continuing on schedule.

According to a 2010 report prepared by the University of Oregon for the Criminal Justice Commission, the average cost of prosecuting a misdemeanor in Oregon is \$1,679. This includes all court costs, but does not include the expense of incarceration or arrest.

Using this average, it is estimated that local courts spent approximately \$1.4 million in costs on IPT charges in the Portland-metro area last year. This estimate does not include costs associated with arresting offenders, transporting them and lodging them in county jails.

Changing the law

On Feb. 2, Rep. Lew Frederick, D-Portland, introduced the bill Rothman helped instigate, House Bill 2826. It would amend what constitutes "interfering with public transit," making someone who is caught on TriMet property without a ticket or under an exclusion no longer subject to the criminal charge.

Frederick says IPTs are an example of regulations used to disproportionately target low-income people, immigrants and people of color.

"If you're an immigrant, and you're not understanding what the system is like, and you end up with a fine once, and then you get another fine – those things continue to build up and you might not even know you're getting fined for them," says Frederick. "That can build up to where you are so far in debt that there is no way for you to even try to get out of it, and you have a long record of Class A misdemeanors, which doesn't help you at all, either."

If the law is changed, police could instead charge people who unlawfully enter TriMet property with second-degree criminal trespassing, but this charge is currently a Class C misdemeanor and carries substantially lesser penalties, says Frederick's legislative assistant, Sue Hagmeier.

O'Connor says other charges easily can flow from an IPT arrest. "Potentially, if the person has contraband or reacts poorly (for example, refuses to immediately obey an order to stop or follow another police command), charges like possession or interfering with a peace officer might follow," says O'Connor.

In Tejero's case, he was charged with theft of services for not paying the \$2.50 fare, and then IPT, he says, when he argued against

Jackie, who is homeless, talks on her cell phone which she considers part of her safety net on the streets.

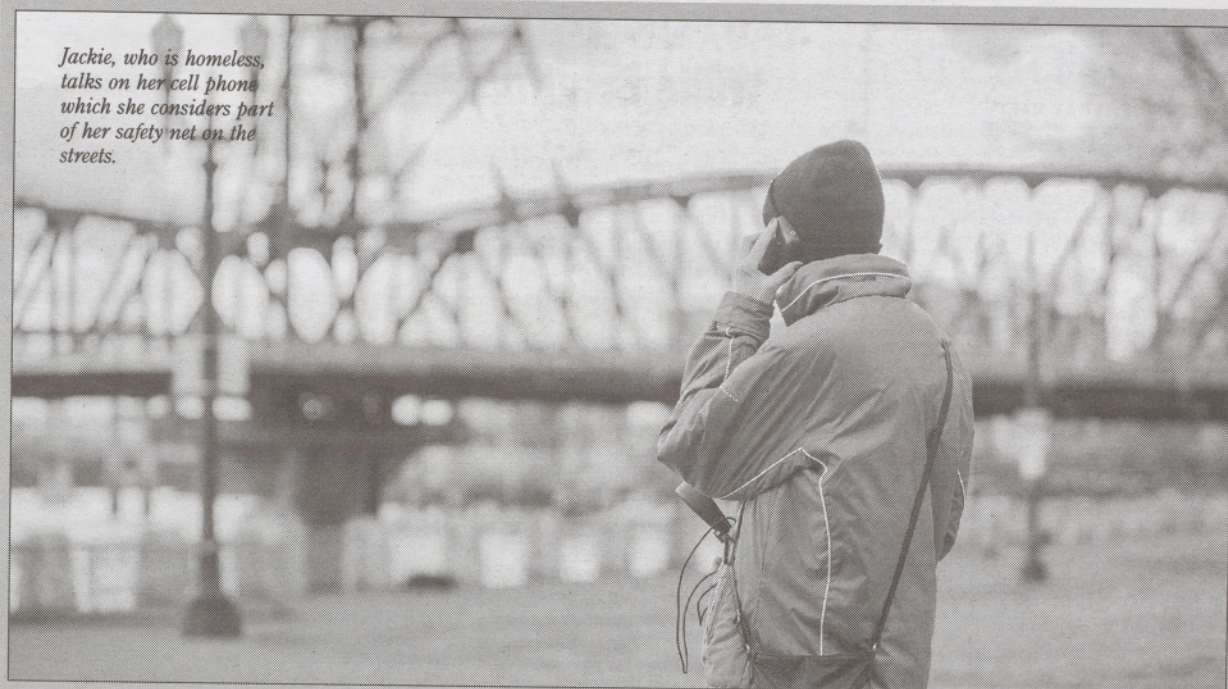


PHOTO BY DIEGO DIAZ

Homeless phone charging "thief" wanted security

BY EMILY GREEN
STAFF WRITER

There are common misdemeanor offenses and then there are the obscure.

This past July, a homeless Portland woman was charged with third-degree theft when she plugged her cellphone charger into an outlet on a sidewalk planter box in Old Town.

Cases in which people are charged with theft for plugging electronic devices into private outlets are uncommon, but defense attorneys say they're another example of resources wasted for frivolous offenses.

In this case, the theft was first reported by Portland Patrol Inc., and two Portland police officers followed up to issue the woman and her co-defendant, a homeless man who was also charging his cellphone at the planter box outlet, citations to appear in court for third-degree theft of

services – a Class C misdemeanor.

According to the Electrical Research Institute, it costs about 25 cents a year to charge the average mobile phone. If the phone in this scenario had gone from zero charge to full charge, the cost would have amounted to mere fractions of a penny.

"Jackie," (who did not want her real name used), says she was shocked when four uniformed officers all agreed her actions warranted not only their response, but also charges and a court summons.

Jackie has never been convicted of a crime. If this charge led to a conviction, it would mean the difference between checking "no" or "yes" to questions about criminal history on a job or housing application.

Her attorney, Metropolitan Public Defender Stacy Du Clos, says Jackie's main concern at the time was how this pending case might hurt her chances of

getting a roof over her head – she's homeless and on several waiting lists for affordable housing units.

Additionally, a theft charge is more likely to be associated with shoplifting or taking personal property, not plugging a charger into an electrical outlet. Jackie says the charge would give the wrong impression of what she had done, should someone see her record.

"It's just my sense of right and wrong, and it just feels so damn wrong," says Jackie. "The amount of time and money and wasted resources with the judge, the lawyers, the clerks, the police and on and on."

Jackie's was not an isolated incident. Public defender Jane Fox says she's seen similar cases.

"It doesn't happen very often, but when

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giving the arresting officer his identity. "I have rights," says Tejero. He says he didn't want to disclose his identity when he had done nothing wrong.

Jamie Trinkle, a law student working in conjunction with Bus Riders Unite – a transit riders advocacy group – says BRU has received stories from riders who say transit officers ask for identification before asking for proof of payment on TriMet property.

The evidence gathered by BRU has been mainly anecdotal, but based on conversations with transit riders, BRU believes that people of color and – echoing Rothman's concerns – people with mental disabilities and people experiencing homelessness are approached disproportionately by security on TriMet properties. (The Oregon Criminal Justice Commission found that 54 percent of those charged with IPT between 2010 and April of 2014 were white, and 27 percent were African American – far above TriMet's estimates on African-American ridership, which TriMet says is in the single digits.)

"There's a huge need for reform in the interfering with public transit criminal code," says Trinkle, pointing out that the offenses it

includes can be covered by other criminal charges. "It's really unnecessary, and it just winds up providing fodder to over-criminalize folks who are being targeted by TriMet police."

Additionally frustrating, say O'Connor and Fox, is the burden TriMet places on the court system. "They use a lot of public resources," says Fox.

"TriMet doesn't have to pay for the jail, the public defender, the court systems cost or anything like that," says O'Connor. "I think the rest of the taxpayers in the rest of Oregon do not realize the cost in money, court time, jail time and other expenses that the current statute allows. I suspect the county and the legislature will be very surprised when they see how much they can save in public defense funds, jail costs, court time and the like by passing Rep. Frederick's bill. TriMet and its enforcers would retain the ability to arrest and charge people who actually interfere with the flow of public transportation, but would stop wasting time and money on people who have purchased a ticket and are not interfering with other people's ability to use public transit."

Frederick says he has not done an analysis to see what the cost savings of this bill might be. The bill's been referred to the House Committee on Judiciary for review.

According to Steve O'Hagan, the deputy district attorney in charge of transit unit prosecution for Multnomah County, between Jan. 1, 2014 and March 1 of this year, 88 percent of the 610 IPT cases prosecuted in the county were for entering TriMet property while under exclusion and for actions such as walking on MAX rails or other areas where the public is not permitted.

O'Hagan says keeping IPTs at a Class A level of misdemeanor is "important for maintaining TriMet as a functioning public transit system." He says that with Class C misdemeanors, "there's not the same ability to monitor and assess behavior on the back end."

"There are times when drug treatment or criminal treatment and services are put into place when someone is on probation for an A misdemeanor, and that, in my experience, is not the case with C misdemeanors," says O'Hagan.