

Racial disparity, harsh penalties cause D.A.s to pull back from some TriMet charges

Fare jumpers won't be charged with Class A misdemeanors

BY EMILY GREEN
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All three district attorneys in Portland's tri-county area signed an agreement Tuesday, Jan. 3, stating their offices will no longer prosecute TriMet fare evasions or exclusions for interfering with public transportation, or IPT.

The agreement comes after district attorney offices in Multnomah, Clackamas and Washington counties all found that among transit riders who didn't pay their fare, African-Americans were excluded from TriMet property at a significantly higher rate than Caucasians.

Transit riders can be excluded from TriMet property for many reasons, including not paying their fare. The exclusion typically remains in effect for 30 days.

In the majority of cases, a person is charged with interfering with public transportation when they are caught fare jumping after being excluded — not for physically interfering with the operation of a public transit vehicle as the name of the charge would suggest.

Interfering with public transportation is a Class A misdemeanor and carries a punishment of up to one year in jail.

Street Roots first reported on the excessive nature of this charge and its drain on court resources in March of 2015 (Street Roots, "TriMet Exclusions: One wrong step").

According to data compiled by the Oregon Criminal Justice Commission, for those who received jail sentences resulting from IPTs from 2010 to April 2014, the average

sentence in Washington County was 28 days.

In Multnomah County, the average sentence was 15 days, costing taxpayers an average of \$2,520 per inmate.

Efforts during the 2015 legislative session to change the language of the charge so that it would no longer apply to someone who entered TriMet property while under exclusion failed.

Rep. Lew Frederick (D-Portland), introduced the bill because, he said, IPTs are an example of regulations used to disproportionately target low-income people, immigrants and people of color.

After TriMet lobbyist Aaron Deas arranged a sit down among TriMet officials, a TriMet-funded district attorney, legislators and public defenders, the House Judiciary Committee reviewing the bill decided to postpone its first hearing, effectively ending its chances for passage that session.

If the number of African-American transit riders and Caucasian riders were equal, for every one Caucasian rider charged with IPT, there would be eight African-Americans charged with IPT.

According to Multnomah County District Attorney Rod Underhill, 500 cases involving IPT charges come into his office for review each year. Of those, he said, 350 to 400 cases involve someone who was charged with an IPT because they were caught riding TriMet, usually for not paying their fare, while under exclusion.

"The other 100 or 150 are going to be behavioral based," he said, "but amongst both groups we see disproportionality — from an RRI (Relative Rate Index) standpoint, of about 8 to 1 range."

That means that if the number of African-American transit riders and Caucasian riders were equal, for every one Caucasian



TriMet MAX station, Old Town Chinatown

STREET ROOTS PHOTO

rider charged with IPT, there would be eight African-Americans charged with IPT.

Also playing into the top prosecutors' decision to stop applying this charge to fare jumpers was its seriousness.

"We see Class A misdemeanors for assault and DUI," said Underhill. "Where should the proportionality be for fare evasion?"

According to the agreement, prosecutors will review those who ignore their exclusions from TriMet property for lesser, Class C misdemeanor charges instead, such as criminal trespass or theft in the third degree.

TriMet also issued a statement saying it deems the district attorneys' decision to change their policies around IPTs to be fair.

Both TriMet and district attorney statements reiterated that a recent independent evaluation of fare enforcement on TriMet by Portland State University's Criminal Justice Policy Research Institute found no evidence of systemic racial bias,

although it did find there was reason to more closely examine why African-American riders were being excluded at a higher rate than white riders.

But fare jumpers will continue to be ticketed, and IPTs aren't going away completely.

"We agree with Tri-Met and others that riders need to feel safe on the MAX and bus lines. Consequently we will continue to review for prosecution IPT charges for persons engaging in or excluded from Tri-Met for qualifying behavior-related conduct such as that which involves assaultive or offensive physical contact, disorderly conduct that involves the use of physical force or conduct immediately likely to result in the use of physical force," read the agreement.

You can read the full agreement online at news.streetroots.org.

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