



STATEMENT OF AGREEMENT

Our offices have recently been examining Interfering with Public Transportation (IPT) cases that are submitted for prosecution consideration involving persons riding Tri-Met without fare. In that same timeframe, on December 14, 2016, a Tri-Met commissioned study from Portland State University (PSU) Criminal Justice Policy Research Institute was released. The report confirmed our findings that among persons riding Tri-Met who do not pay fare, African Americans are excluded at a disproportionately higher rate than Caucasians. Although the PSU report did not find any systemic racial or ethnic bias, the author of the study did suggest that the “elevated percentage of African American riders being excluded should be examined more closely.” It is of the highest importance that justice guides our prosecutorial decisions. When deciding whether to initiate prosecution it is important to consider, among other things, fairness, equity and proportional consequences. Our offices share a concern that the racial disparity confirmed in the PSU study could lead to unjust results in the criminal justice system.

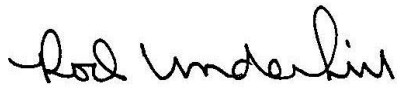
We commend Tri-Met for commissioning this study and for moving, as we understand, toward a less punitive administrative sanction process. Beyond the issues of unfairness and unequal treatment of African American fare evaders on Tri-Met, we further evaluated whether the level of harm to Tri-Met caused by fare evasion is proportional to the level of prosecution for IPT, a Class A Misdemeanor. We have determined that in all but the most chronic or exceptional circumstances applying this law to any previously excluded fare evader is not a proportional consequence, and for African Americans it compounds a disproportionately higher rate of exclusion from Tri-Met for African Americans. For these reasons we have decided to modify the way fare evasion based IPT cases are handled by our offices.

Absent exceptional circumstances or chronic offenders our offices will no longer prosecute Tri-Met fare evasions or exclusions for IPT. We will review Criminal Trespass and or Theft in the Third Degree, both Class C Misdemeanor charges, against any person who chronically violates their Tri-Met exclusion and or who present exceptional circumstances that necessitate prosecution. We feel using Class C Misdemeanor charges to address chronic fare evasion offenders on Tri-Met balances Tri-Met’s need to maintain order on its system, while simultaneously equating the level of harm with the appropriate charge in the criminal justice system.

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.

We again commend Tri-Met for undertaking evaluation of their practices and are encouraged that we are able to partner with them in developing a fair, equitable and proportionate policy moving forward.



Signature

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Date

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