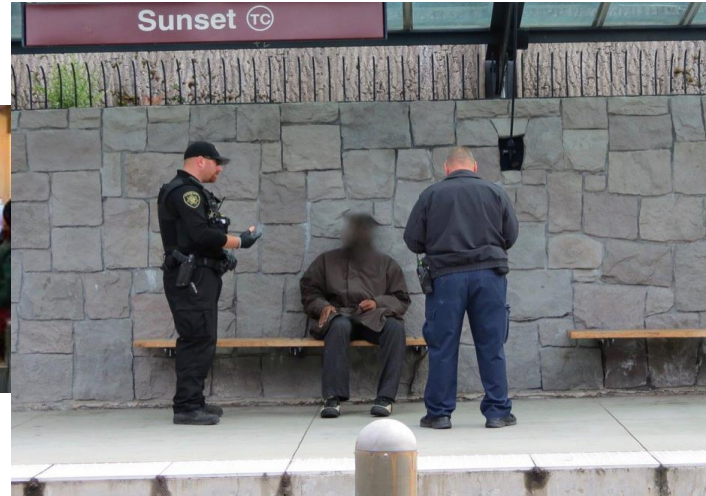


Goals of HB 4097

- Use limited law enforcement resources for public safety
 - It makes no sense to use valuable law enforcement resources to enforce fares, the equivalence of a parking ticket
- Prevent the over-criminalization on low-income communities, especially for black communities
 - “Fare evasion only, is not a crime”
- Protect the constitutional Rights of Riders
 - ACLU: Unconstitutional practices are still unaddressed as long as police continue to participate in fare sweeps

Use limited law enforcement resources for public safety

Using Transit Police for fare enforcement (a civil penalty) takes away from public safety issues.



Prevent the over-criminalization on low-income communities, especially for black communities

UNEQUAL JUSTICE

BLACK RIDERS FACE STIFFEST TRANSIT PENALTY AT RATES MORE THAN SIX TIMES THAT OF WHITES

LEE VAN DER VOO, MANAGING DIRECTOR [Twitter](#) April 5, 2017

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OREGONLIVE
The Oregonian

Commuting

Study: Black MAX riders more likely to be banned from TriMet for fare evasion

Updated Jan 09, 2019; Posted Dec 14, 2016



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BLOGTOWN

NEWS

TriMet Study On Racial Bias Based on Incomplete Data

by [Kelly Kenoyer](#) • Aug 10, 2018 at 4:54 pm

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Screen_Shot_2018-08-10_at_4_36_09_PM.png

TRIMET

The misdemeanor charge can interfere with housing, jobs

The video shows what most people saw: a TriMet rider, 25, black, male, tall, standing aside a squad car on a summer afternoon, surrounded by three police officers. The issue? A disturbance on a bus.

What you hear, though, are shouts from the other riders.

“He didn’t do anything.”

“He has his ticket.”

“He didn’t cuss at them and he has a ticket.”

As the scene unfolds, it seems like nobody knows why someone is being arrested.

Even Brandon Dean, the man in the handcuffs, who after spending 10 hours hungry in a jail cell downtown, is still unsure.

Failing to have a valid TriMet ticket can lead to a variety of sanctions (See box). Sitting behind bars, Dean faced two charges. The first was theft of services, for failing to have a valid fare, a minor misdemeanor akin to shoplifting. The second charge was interfering with public transit for holding up the bus. It’s a more serious misdemeanor charge, with penalties on par with driving drunk or a domestic assault.

Eventually, Dean was released and he walked home to near Southeast 145th Avenue and Division Street, where all the police action went down, wondering what most everybody else wondered, too: Why, exactly, did he get arrested?

No ticket to ride? Here’s what you can expect

TriMet’s fare enforcement is complicated by the fact that the agency doesn’t use turnstiles or gates to prevent people without MAX tickets on the light-rail platforms. Instead, to discourage “fare jumpers,” the agency conducts random inspections of passengers

UNEQUAL JUSTICE
BLACK RIDERS FACE STIFFEST TRANSIT PENALTY AT
RATES MORE THAN SIX TIMES THAT OF WHITES
CE: UNPLANNED URBAN MOBILITY DIRECTOR | April 6, 2017

RECOMMEND FOLLOW EMAIL PRINT MORE



Serious charge, significant disparity

African-American transit users had long complained they were targeted for enforcement on trains and buses.

So, last year, at TriMet's request, Portland State University's Criminal Justice Policy Research Institute studied two years of enforcement data and found that fare inspectors and supervisors did not disproportionately charge African-American riders with skipping fares.

However, that study did find that African-American riders were more likely than whites to be excluded from trains and buses. At the time, TriMet characterized the variances found in the PSU study as slight. And when the data are sliced one way, disparities were slight.

What the study did not include, however, was a thorough analysis of another common charge — one that Dean got: interfering with public transit, known as IPT.

Our analysis, which includes 10 years of state court data, shows that African-Americans have been charged with IPT at a rate up to 6.4 times the rate of white riders over the past decade.

TriMet did not track IPTs, however, because only sworn police officers, not TriMet personnel, can enforce an IPT charge.

However, many — and likely most — of those IPT charges came from local police working on the regional Transit Police Division, which uses 68 cops from 15 police agencies spanning three counties. (Our analysis, part of a series on disparities in Oregon's criminal justice system, showed that 77 percent of all charges of interfering with public transit in the past decade were charged by the Portland Police Bureau, followed by 8 percent by Gresham Police.)

Interfering with public transit: This is where the police come in. If you've had an encounter with a TriMet fare enforcement staff that isn't going well, or you've had a conflict with a driver or other passengers that prompts someone to call police, you could be charged with interfering with public transit for holding up the system. The charge is a misdemeanor and is processed by the courts. That means you're facing fines, fees, community service, even jail time based on your history. Such situations often also involve exclusion from TriMet.



UNEQUAL JUSTICE

BLACK RIDERS FACE STIFFEST TRANSIT PENALTY AT RATES MORE THAN SIX TIMES THAT OF WHITES

CE: UNRECORDED MANAGING DIRECTOR April 6, 2017

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PHOTO COURTESY OF METRO



Protect the constitutional Rights of Riders



Judge: TriMet arrest of school board member unconstitutional

The judge's opinion appears to throw TriMet's fare-enforcement strategy, particularly stings where all passengers are indiscriminately stopped and asked for proof of fare, into doubt.

Author: Associated Press

Published: 12:35 PM PDT September 22, 2018

Updated: 12:35 PM PDT September 22, 2018

What was TriMet's response to the ruling?

- TriMet disagreed with the Judge's ruling and said the ruling just created “confusion.”
- Therefore they just clarified, through [Ordinance 351](#), that they have the authority to do what they did to my constituent.



Memo

Date: November 14, 2018

To: Board of Directors

From: Doug Kelsey

Subject: **ORDINANCE 351 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AMENDING TRIMET CODE CHAPTER 29 AND UPDATING PROCEDURES FOR REQUESTS FOR PROOF OF PAYMENT (SECOND READING)**

1. Purpose of Item

Ordinance 351 requests that the TriMet Board of Directors (Board) adopt changes and update procedures for fare inspections contained in TriMet Code Chapter 29.

TriMet clarifies fare enforcement authority

Jim Redden Wednesday, November 14, 2018

Board of Directors passes ordinance that failed to receive unanimous support at previous meeting.



PAMPLIN MEDIA GROUP FILE PHOTO - TriMet passengers purchase tickets before boarding a MAX train.



Inspections As Justice Department Declines to Appeal Case

"The ordinance clarifies that TriMet does have the authority to require riders of our transit system to show they have paid their fare when requested by a TriMet inspector or police officer."



MAX trains in downtown Portland. (Sean Davis / Flickr)

By **Katie Shepherd** | Published October 18, 2018 • Updated October 18, 2018

TriMet announced a proposed ordinance that would codify the agency's authority to conduct random fare checks as a condition of riding the train or a bus.

ACLU's response to TriMet's ordinance change:



TriMet clarifies fare enforcement rules as some board members call for more education

Updated Nov 14, 2018, Posted Nov 14, 2018

But the ACLU of Oregon said while TriMet was taking steps to making fare enforcement “more equitable” it believes the “unconstitutional practices highlighted by Judge Wittmayer” are still unaddressed. The ACLU said as long as [police continue to participate in fare sweeps](#), it will continue to impact the poor, people with mental health issues and communities of color.

TriMet is also using fare enforcement to troll low-income communities and communities of color for warrants.

From: Deas, Aaron <DeasA@trimet.org>
Sent: Wednesday, April 3, 2019 9:30 AM
To: Rep.ChrisGorsek@state.or.us
Subject: HB 3337 in today's H Judiciary
Importance: High

Hello Representative Gorsek and Jason,

I am not exactly sure where we are on HB 3337, so I thought I would give you some information that I have been sharing with Chair Williamson and Representative Bynum.

Below is what I sent to the Majority Leader:

I've been discussing with my team the Majority Leader's idea of continuing to allow TriMet's Transit Police Department (TPD) to fare inspect, but disallowing them from running warrant checks if the sole reason for the check is to write a citation for fare evasion. While allowing our TPD to continue fare checking is important (we only have 3 full time fare inspectors and 70 Supervisors (who occasionally perform fare inspection but whose primary functions are not related to fare inspection), and supported by 42 TPD officers), we cannot support this concept for a few key reasons:

- The May 2017 incident at the Hollywood Transit Center where two people were murdered and a third was stabbed has left our community asking TriMet to provide more security, and be more proactive in stopping bad people from being on our system in the first place.
- We asked TPD to compile a list of warrants over the past year. There are over 900, including sex offenders, homicide suspects, and felony assault suspects who have had outstanding warrants and the fare evasion was the likely precipitating event (these are records from transit police officers, but it is possible that some of these arrests originated from something other than fare evasion). But we know of specific cases where a fare evasion check led to arrests of a man wanted in Ohio for 5 counts of rape, one wanted in California for sex offenses, and one wanted in Virginia for multiple offenses including Grand Larceny. There are many, many others.
- TriMet does not want to be responsible for a scenario where a wanted criminal who was recently fare inspected by a Transit Police officer and was cited and let go because our police officer was disallowed from running a warrant check, only to have that person return a few days later and commit a terrible violent crime. Being able to catch and remove wanted criminals off our system makes EVERYONE safer.

I understand that there is some concern about allowing TPD officers to "troll" for warrants, but it is important to understand that in order for a police officer to run a warrant check, the rider must have first violated TriMet code. If the rider has a fare, the warrant check is never run. This is similar to a traffic mission to identify speeding violations for car drivers, where an officer checks a driver's speed on a road or highway. If the person is speeding, the officer pulls them over and runs a warrant check. If there are no warrants then the driver is given a citation for speeding. If the driver is not speeding, they are not pulled over, and a warrant check is never run.

If there is a concern that TriMet's TPD officers are abusing their authority or behaving inappropriately to our riders, we would be happy to address this concern either by providing to you a breakdown of the number of warrants, types, and circumstances or bring this concern to our Transit Equity Advisory Committee (TEAC), where they can review our TPD fare inspection practices. TEAC represents a diverse cross-section of community leaders including Central City Concern, IRCO, Urban League, OPAL and Hacienda.

Representative Bynum's staff had concerns that most fare evaders were likely low income and that warrant checking fare evaders would disproportionately affect this population. While we don't ask income questions, we did a survey in 2018

“I've been discussing with my team the Majority Leader's idea of continuing to allow TriMet's Transit Police Department (TPD) to fare inspect, but disallowing them from running warrant checks if the sole reason for the check is to write a citation for fare evasion...we cannot support this concept for a few key reasons...

I understand that there is some concern about allowing TPD officers to "troll" for warrants, but it is important to understand that in order for a police officer to run a warrant check, the rider must have first violated TriMet code.”

- Aaron C Deas

TriMet's Office of Government Affairs

HB 4097:

What the bill does:

- Prohibits police officer from conducting or participating in activities intended to determine whether person has paid certain user charges, fees or tolls imposed by mass transit district.

What it does not do:

- “Nothing in this section prohibits a police officer from enforcing laws that are not related to payment of user charges, fees or tolls imposed by a mass transit district under ORS 267.320.”

Will fare enforcers still be able to do their jobs and issue citations if this bill passes?

- YES, fare enforcers, who are not police, will still be able to lawfully ask for proof of fare payment.

Will this bill prevent law enforcement from providing public safety in mass transit districts?

- Law enforcement will still be able to provide public safety and have a PRESENCE. Police can be present and would still enforce laws on transit vehicles and platforms. For example, an unruly passenger could be arrested for disorderly conduct. The intent is to focus public safety resources on public safety.
- To be clear, under this bill, law enforcement can be present on platforms for any reasons, even if fare enforcers are doing a sweep, for public safety reasons.

- This bill is about:

- making sure our transit system is safe and welcoming for any Oregonian who chooses to use it.
- freeing up time for law enforcement officers who currently check tickets to respond to more serious incidents.
- protecting civil liberties and therefore allowing for civil liberties and public safety to go hand and hand

- Deploying law enforcement to conduct fare inspection stops without individualized reasonable suspicion raises serious constitutional concerns and diverts law enforcement resources away from legitimate public safety needs.

- I urge your support on HB 4097