

REVIEW OF TERMINATION AND DISCIPLINARY ACTION BY TRI-MET 2000 - 2009

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Introduction

Discrimination is notoriously difficult to document. Convincing tests for discrimination require good measures of the legitimate determinants of the outcome of interest, for example wages and productivity. (Scott Smart and Joel Waldfogel, 1966)

The Tri-County Metropolitan Transportation District of Oregon (Tri-Met), has an active affirmative action program with a stated goal to "increase agency diversity." Tri-Met has also stated in its Annual Affirmative Action Report that "there is no evidence of historical discrimination at Tri-met." However, in recent years some Tri-Met employees have raised questions about whether or not there is in fact discrimination in termination policy and the administration of disciplinary actions at Tri-Met.

In order to explore the possibility of discrimination at Tri-Met, an analysis was conducted on the termination and discipline rates based on ethnicity. The data source for this analysis was taken from the past 10 years of affirmative action reports issued by Tri-Met.

Methodology

This analysis was performed by taking the information on termination and discipline from the annual affirmative action reports produced by Tri-Met from the years 2000 through 2009. This information was examined on the basis of the type of administrative action (i.e. termination for cause), and ethnicity. The information was first graphed for easy visual examination. When appropriate statistics were used to test for the likelihood that the results seen in the graphs could be the result of random variation, or as it is more commonly thought of chance.

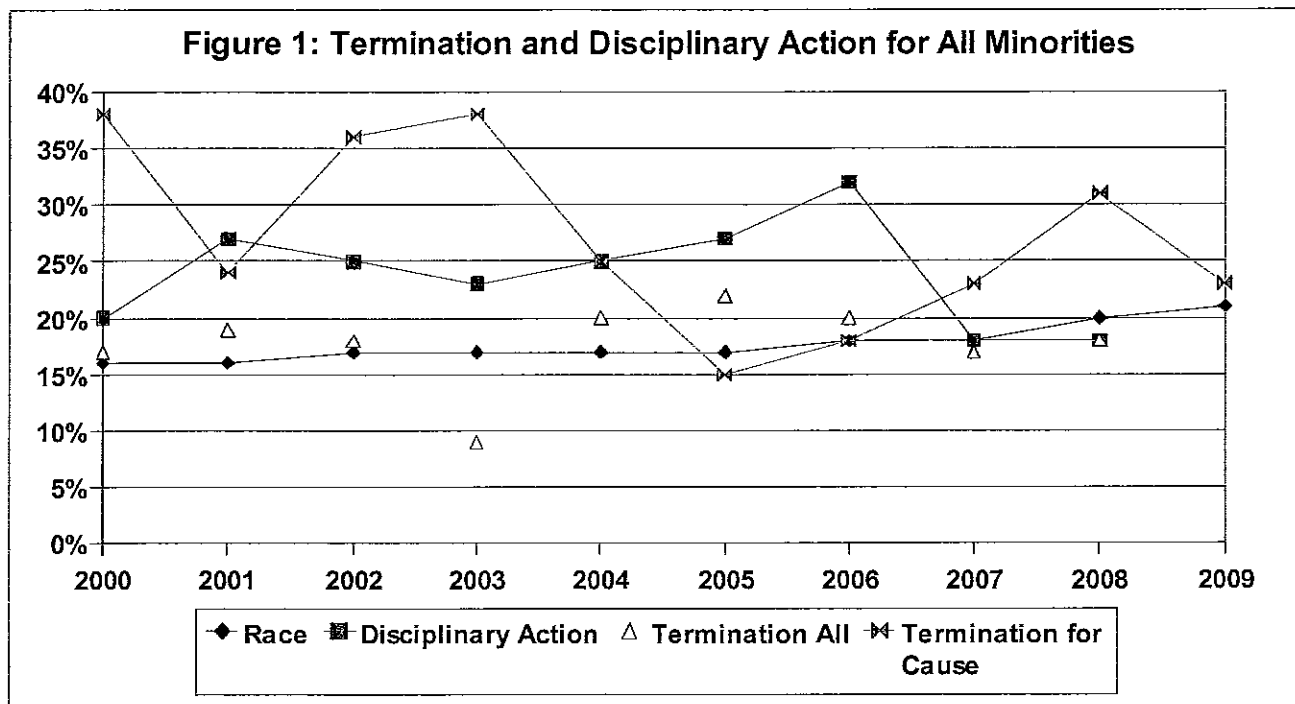
Results

First, it should be made clear that statistics performed on termination and discipline information can not in themselves prove that discrimination has, or has not, occurred. What statistics can do is show us if there is an area in which Tri-Met's administration of termination and discipline is different from what would be predicted on the assumption that there is no discrimination.

Overall Trends

In the 10 year period from 2000 through 2009 Tri-Met terminated 226 employees for cause, terminated 1,550 employees for all causes, and instituted some form of disciplinary action against 1,585 employees (note data was only available on termination for cause for the year 2009). During this same 10 year period 62 of those terminated for cause were minority employees, 275 of those terminated for all causes were minority employees, and 381 of those disciplined were minority employees.

In order to compare these rates of termination and discipline with the proportion of minority employees working at Tri-Met during this time period the following figure graphs the percentage of terminations, disciplinary actions, and minority employees for each of the 10 years under study.



As you can see in Figure 1, the percentage of Terminations For Cause involving minority employees has almost universally been much higher than the percentage of minorities employed at Tri-Met. In some years the percentage of employees terminated for cause who were also minorities has been more than twice as high as the percentage of minority employees at Tri-Met. At the same time, there was only one year, 2005, when the percentage of Terminations For Cause involving minority employees was less than the percentage of minority employees.

If you start with the assumption that minority employees at Tri-Met have the same work attributes as White employees and are treated by management the same as White employees, you would expect that the percentage of terminations involving minority employees would vary both both up and down from the percentage of minority employees. You would not expect that every year the percentage of terminations involving minority employees would match exactly the percentage of minority employees at Tri-Met, but you would expect that over time the two percentages would be very close to the same. In this case the two sets of numbers are very far from the same and the likelihood, that what has been observed here could happen by chance is only .0023. In other words there are only two chances out of a thousand that this pattern of Termination For Cause of minority employees would be seen without some underlying cause.

A very similar story is also true for Disciplinary Actions. For the first seven years, from 2000 through

2006, the percentage of Disciplinary Actions involving minority employees exceeded the percentage of minority employees. In one year, 2006, the percentage of Disciplinary Actions involving minority employees was almost twice as large as the percentage of minority employees (32% vs. 18%). Here too there was only one year, 2008, when the percentage of Disciplinary Actions involving minority employees was lower than the percentage of minority employed.

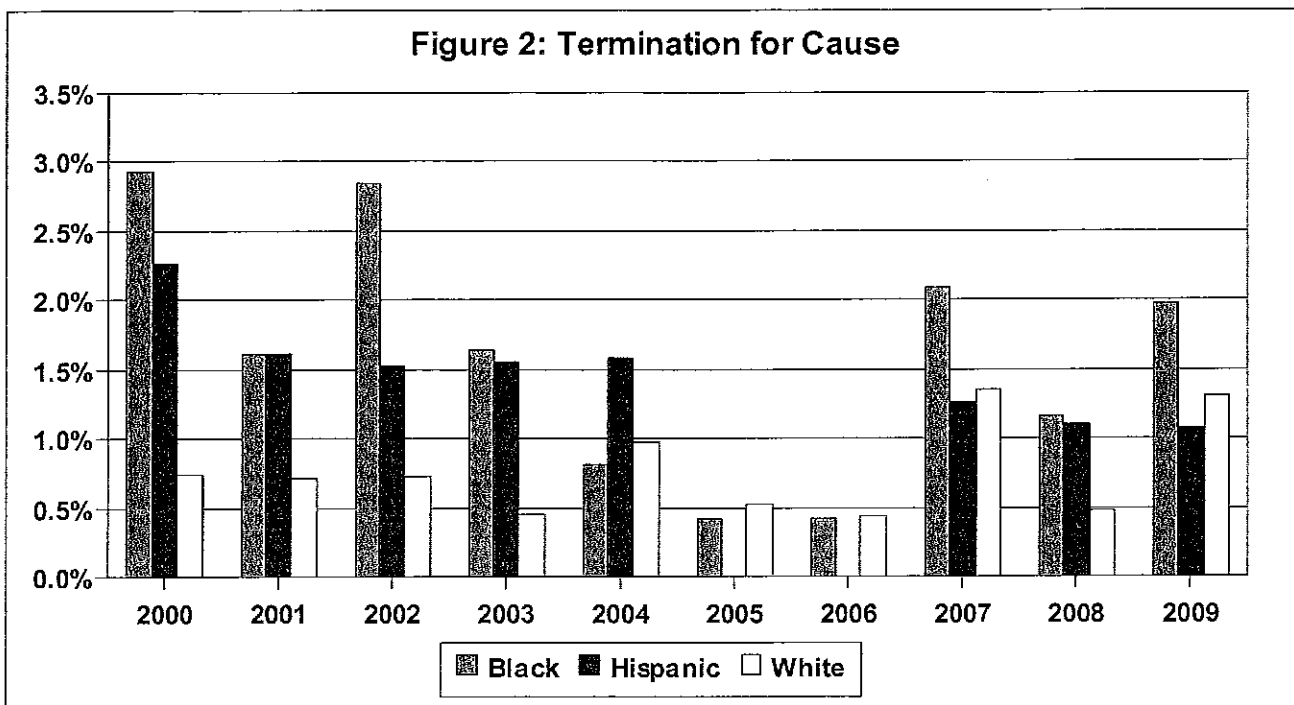
The probability that this pattern of minority discipline could occur by chance is only .0036, or slightly less than four times out of one thousand.

The case for Terminations For All Causes is much different. The trend line for Terminations For All Causes swings both above and below the trend line for minority employment, with three years in which Terminations For All Causes were less likely among minority employees than among white employees, and another two years in which the chance of Termination For All Causes were the same for minority and white employees.

This is exactly the type of pattern you would expect to see if the only thing happening is random variation. As it turns out, the probability that the pattern seen with Terminations For All Causes is due to chance is 74%. In other words there is no evidence that minority employees are being treated any different than White employees. Because of this result, no further investigation was carried out on the issue of minorities and Terminations For All Causes.

Termination for Cause

Because of the clear systematic differences in Termination For Cause and Disciplinary Action between white and minority employees further investigation seemed warranted. Termination For Cause and Disciplinary Action were both examined for the difference between specific racial and ethnic groups, in particular between Black, Hispanic, and White. The following figure shows what percentage of Black, Hispanic, and White employees were Terminated For Cause for each of the years from 2000 through 2009.



From Figure 2 you can see that for eight of the ten years under investigation the rate at which Black employees have been Terminated For Cause is higher, and usually much higher, than the rate at which White employees have been terminated. For Hispanic employees this case is similar, although the differences between Hispanic and White termination rates is not as large as it was with Black Employees. In neither case can these differences be explained by chance alone. The probability of this result happening by chance is less than one in a thousand.

It is also worth noting that the trend of the first five years, 2000 through 2004, is different than the trend from 2005 through 2009. In 2005 and 2006 there were far fewer Terminations For Cause for all employees than in any of the preceding five years, and no Terminations For Cause of any Hispanic employees. Starting in 2007 Terminations For Cause returned to their earlier rates and at the same time the rate of Termination For Cause among White employees for two years (2007 & 2009) was at approximately twice the average of the previous eight years. We do not have any explanation for these changes.

Before leaving the issue of terminations for cause, we should mention that Tri-Met actually lists the causes for termination in general categories. By far, the major reason for termination is related to poor job attendance and time lost at work, especially for female employees.

Disciplinary Action

The same analysis as above was also done for Disciplinary Action against Black, Hispanic, and White employees. See Figure 3 below.

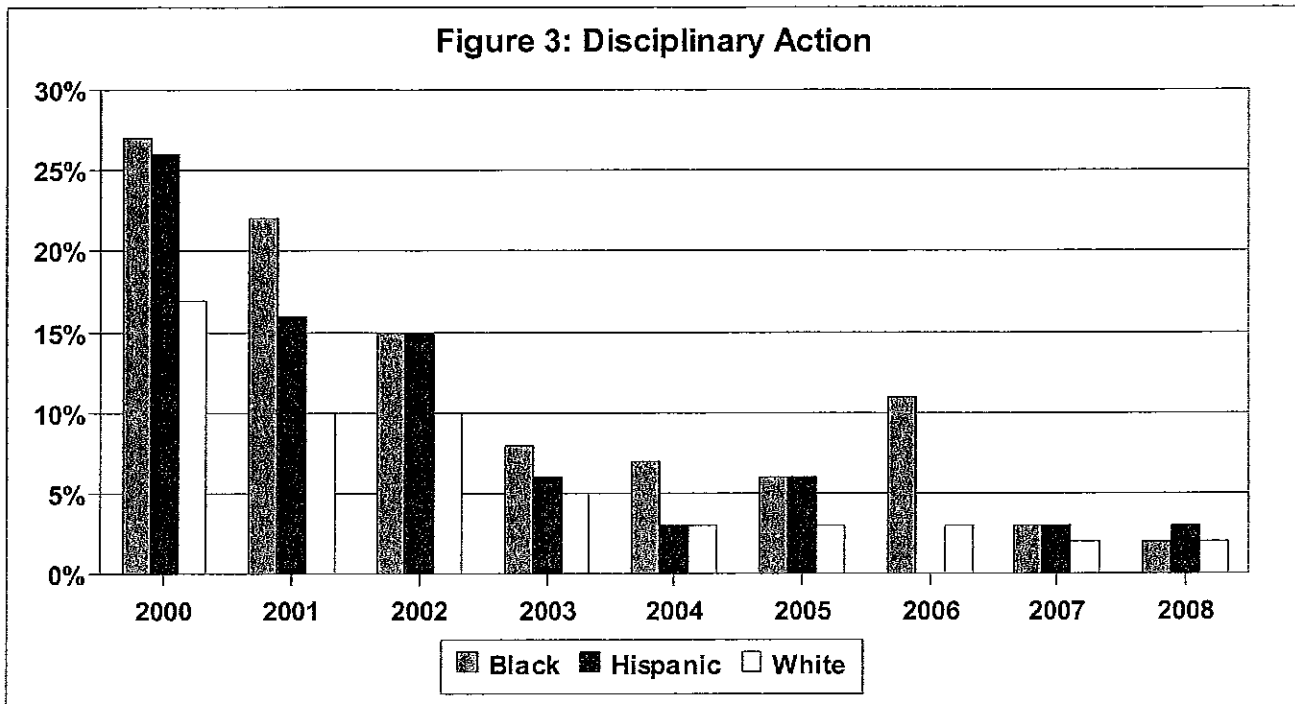


Figure 3 shows that Disciplinary Action is almost always more likely for either Black or Hispanic employees than it is for White employees. The major exception to that was in 2006, when no Hispanic employees were disciplined. There is less than one chance in 1,000 that this result is due to chance.

Here again, it is important to note that the rate at which employees were subjected to Disciplinary Action has decreased dramatically during the ten years under study. In 2000 the number of employee disciplinary actions was equal to 18% of the workforce, while in 2008 the rate was down to only 2%. Of course, the number of individuals disciplined in any year is bound to be less than the rate of discipline, since an individual employee could be the subject of more than one Disciplinary Action.

In addition to examining the Termination For Cause and Disciplinary Action rates of Black, Hispanic, and White employees, we also looked at these same rates for Asian and American Indian employees. In the case of Asian employees, the rates tended to hover very close, and sometimes below, the rates for White Employees. Because of this Asian rates were not plotted or tested for significance. The case of American Indians was different. First, Tri-Met did not give data for American Indians until 2004, making a trend analysis more difficult. Second, the number of American Indian employees at Tri-Met has only ranged from 21 to 28 individuals. With such a small number of employees it is almost impossible to reach any conclusion. If a single American Indian employee is Terminated For Cause, or if three or four American Indian employees are disciplined, then their rate for these actions exceeds all other racial or ethnic groups. Consequently, their rates jump from zero to very high on a yearly basis. Because of these factors, American Indian employees were not included in the analysis by race and ethnicity.

Conclusion

Statistics do not prove cases. What statistics do is show us when there is reason to investigate an observation, and when it is likely that what we are observing is only normal, or random, variation. In the case of potential discrimination at Tri-Met on the basis of race or ethnicity, this indicates that some form of further investigation might be warranted.

The final decision on whether or not to investigate further also depends on whether or not there is reason to believe that Black, Hispanic, and White employees should be assumed to start their careers at Tri-Met on equal grounds. This means that the criteria for such things as hiring, job assignment, type of supervision, and promotion are equal for all employees. If there is any form of bias in how employees are hired or how Tri-Met administration treats employees than the statistics presented here might be in error. The assumption in this study was of an completely level playing field for all employees. Anything that makes it such that one group of employees or another has a built in advantage or disadvantage might mean that one would not expect equal outcomes in areas such as termination and disciplinary action.