



Racial Impact Statements

Problem

Racial disparity exists in every state's criminal justice system. Studies detail the persistent and disproportional racial impacts throughout the criminal justice system.¹ States in the Northeast and Upper Midwest have the highest rates of racial disparity in the nation.² Forthcoming research by sociologist Bruce Western provides evidence that states with smaller minority populations exhibit greater racial disparities in the criminal justice system. In 2005, Minnesota ranked 13th in rates of racial disparities in its criminal offender population.³ On average, 9 African American males are incarcerated for every 1 Caucasian male.⁴

Solution

Racial Impact statements estimate the disparate outcomes of proposed legislation. Similar to fiscal or environmental impact statements, they anticipate *unwarranted* racial impact allowing evidence-based consideration for alternative policies.⁵ Racial impact statements are not impediments to enacting changes in the law, but a tool to guide the development of fair policies.⁶ They provide legislators with an opportunity to address unintended racially disparate outcomes prior to legislative enactment.

Minnesota

The MN Sentencing Guidelines Commission is a national leader in creating Racial Impact statements for sentencing polices on felony level offenses. Codifying their current practice and emphasizing the expansion of data collection will not increase the burden on the Sentencing Guidelines Commission, but will ensure that Minnesota legislators have access to the information that enables them to make informed decisions. Racial Impact Statements ameliorate the difficult situation that legislators and the community face when laws that have a racially disparate impact must be corrected.

Through bi-partisan efforts, the Disproportionate Minority Contact Act was passed in 2009. It provides: "It is the policy of the state of Minnesota to identify and eliminate barriers to racial, ethnic, and gender fairness within the criminal justice, juvenile justice, corrections, and judicial systems, in support of the fundamental principle of fair and equitable treatment under law."⁷ Racial Impact statements strengthen and support the legislation passed in 2009.

Conclusion

In 2009, Iowa and Connecticut passed racial impact legislation after rankings of 1st and 4th highest in levels of racial disparity, respectively. States currently considering related legislation include Oregon, Illinois and Texas.

Racial Impact Statements provide a tool in creating fair laws and policies that prevent unwarranted racial disparity. Legislation requiring the Minnesota Sentencing Guidelines Commission to prepare Racial Impact Statements and expand the scope of data that is collected offers a systematized unbiased and evidence-based process to decrease racial disparity in Minnesota's criminal justice system.

¹ Marc Mauer, *Racial Impact Statements: Changing Policies to Address Disparities*, 23 Criminal Justice 4 (Winter 2009) (2009 American Bar Association) available at http://www.sentencingproject.org/doc/rd_abaarticle.pdf

² MARC MAUER AND RYAN S. KING, UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY, 4 (The Sentencing Project) (2007), available at http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf

³ *Id.* at 11. (Table 6 provides prison and jail incarceration rates by Black-to-White ratio, rate of incarceration per 100,000 population. Incarceration rates are based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity. The District of Columbia is ranked 1st, but is not considered in Minnesota's ranking of 13th in the nation. Probation and parole rates are not included.

⁴ *Id.*

⁵ The Criminal Justice Transition Coalition, *XII. Promote Fairness and Address Disparity: Support Racial Impact Statements as a Means of Reducing Unwarranted Sentencing Disparities*, http://2009transition.org/criminaljustice/index.php?option=com_content&view=article&id=54&Itemid=107 (last visited March 10, 2010).

⁶ Mauer, *supra* note 1 at 3.

⁷ MINN. STAT. § 260B.002 (2009).



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