



**Racial Impact Statements SF:3326** The principle of impartial justice is a cornerstone of American democracy. Yet in the drafting of our laws, insensitivity to issues of class and race can result in a legal system that tilts against one segment of our population and unfairly privileges another. For this reason, I ask that the legislature consider adopting racial impact statements.

Racial impact statements are a new tool developed to estimate the unequal racial impacts of criminal justice policies in the same way that fiscal or environmental impact statements describe the budgetary and ecological effects of other policies. This allows legislators to make an informed consideration of racial impacts when crafting solutions to crime and delinquency, and helps ensure that racial justice costs are included in the public dialogue regarding criminal justice choices.

There is little question that extreme racial disparities exist in the criminal justice system. The U.S. Department of Justice reports that nationally 17% of adult black males and 8% of Latino males have been jailed compared with just 2.6% of white males. States in the Northeast and Upper Midwest have the highest rates of racial disparity in the nation. Forthcoming research provides evidence that states with smaller minority populations exhibit greater racial disparities in the criminal justice system.

Disparities in the Criminal Justice system result from a complex set of factors. Among them are sentencing and drug policies that produce disproportionate racial/ethnic effects. More than two decades ago Congress mandated longer prison sentences for abusers of crack cocaine than for those who abuse the powder version. The result was a dramatic increase in the incarceration of African Americans.

Recognizing its error – belatedly – Congress recently reversed itself. Minnesota showed its leadership on this very issue 15 years ago by eliminating the unwarranted and unscientific distinction between powdered and rock cocaine.

Both the Minnesota and US action were triggered by the undeniably unequal impact those laws had on African Americans. Had racial impact statements been part of the legislative process, many of these effects could have been predicted before the policies were put in place.

Once legislation is enacted, it is very difficult to change it, even to correct the racial disparity it causes. In order to avoid unwarranted disparities within the criminal justice system, policymakers must weigh the potential racial impact of proposed sentencing legislation. One means of accomplishing this is through "Racial Impact Statements."

Impact statements allow the legislature to anticipate any unwarranted racial or ethnic disparities, and to consider alternative policies that could accomplish the goals of proposed sentencing or related criminal justice legislation, without causing avoidable racial disparity.

## WHY SHOULD MINNESOTA CONSIDER IMPACT STATEMENTS?

In 2006 MN had the nation's 5<sup>th</sup> highest rate of racial disparity in incarceration and 13<sup>th</sup> highest for total disparities under supervision – meaning probation or supervised release. On average, in MN 9 African American males are incarcerated for every 1 Caucasian male. In 1978, the Minnesota prison population was 12% African American. Today it's approaching 50%. These disparities persist in our juvenile justice system. Today in both Ramsey and Hennepin County the percentage of youth of color in detention is approximately 85%. These lopsided trends also impact our youth in out-of-home placement where MN has the 7<sup>th</sup> highest rate of racial disparity.

In a recent national poll over 50% of Americans agreed that is extremely important that we not tolerate a criminal justice system that is unfair to racial and ethnic minorities. In same poll over 70% believed that individuals were not treated fairly in the criminal justice system regardless of circumstance.

Our justice system cannot function without the trust and confidence of the citizens it is meant to serve. Proactively identifying potential disparities will increase the trust and therefore the efficacy of our justice system.

The original legislation creating the Minnesota Sentencing Guidelines mandates that sentences should be impartial with respect to race and social status. It also requires that guidelines should be proportional, based upon sentencing practices prior to the implementation of guidelines and take into "substantial consideration" the prison capacity.

Minnesota's Sentencing Guidelines Commission is a national leader in evaluating racial impact of sentencing policies on felony level offenses. Its work is considered a model for other Midwestern states adopting the use of racial impact statements.

In 2009, Iowa, Wisconsin and Connecticut began using racial impact statements to evaluate legislation. At the time legislation was passed Iowa ranked 1<sup>st</sup> for racial disparities and CT 4<sup>th</sup>. Unfortunately, MN is not far behind. States currently considering related legislation include Oregon, Illinois and Texas.

In MN - in 2009 - through bi-partisan efforts, the Disproportionate Minority Contact Act passed. 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." Racial Impact statements strengthen and support the legislation passed in 2009.

Minnesota's population is growing more diverse each year. Demographers estimate that by 2030 MN's population will be majority people of color. We are all aware of the collateral consequences that result from involvement with the Justice System. Failure to consider unequal impacts in criminal justice policy will not only impact the individuals caught in the system, but threaten the social, civic and economic futures of communities across that state.

Racial impact statements do not "TIE THE HANDS" of policy makers, rather they support our increased move towards adopting evidence-based decision making in public safety policy. Racial impact statements are a straightforward way to move the debate on these critical issues to the forefront of the criminal justice policy development process.

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