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State of Maine
130th Legislature, First Regular/Special Session

Legislative Council Subcommittee to Implement a Racial Impact Statement Process Pilot

December 2021

Office of Policy and Legal Analysis



**STATE OF MAINE
130th LEGISLATURE
FIRST REGULAR/SPECIAL SESSION**

**LEGISLATIVE COUNCIL SUBCOMMITTEE
TO IMPLEMENT A RACIAL IMPACT STATEMENT
PROCESS PILOT**

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Table of Contents

	Page
Executive Summary	i
I. Introduction	1
II. Subcommittee Process	2
III. Proposed Racial Impact Statement Process Pilot	5
A. Parameters governing the content of racial impact statements.....	5
B. Role of the University of Maine System and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations	6
C. Legislation to be included in the pilot	6
D. Guidance to pilot committees.....	7

Appendices

- A. Authorizing Legislation: Public Law 2021, chapter 21
- B. Charts on Other States' racial impact statements and sample statements from Iowa, Minnesota and Oregon
- C. Staff Memo summarizing articles assessing the impact of impact statements and source articles
- D. Urban Institute Guide for Racial Equity in the Research Process
- E. Draft proposal for Racial Impact Statement Process Pilot from Dr. Meadow Dibble
- F. Memoranda to Pilot Committees providing guidance on reporting back to the Legislative Council

Executive Summary

Public Law 2021, chapter 21 directs the Legislative Council or its delegate to determine the best methods to establish and implement a system for using racial impact statements in legislation. The Legislative Council named 5 members to the Subcommittee to Implement a Racial Impact Statement Process Pilot. Over the course of 4 meetings the subcommittee reviewed racial impact statements in other states, considered the availability of data sources necessary to produce statements and looked at which policy areas would most benefit from a racial impact analysis.

The subcommittee partnered with a research team consisting of the Permanent Commission on Racial, Indigenous and Maine Tribal Populations and the University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy Center. For this limited pilot, the research team agreed to provide the Legislature with racial impact statements on 7 bills, selected by the subcommittee, which were carried over from the First Regular or Special Session.

Committee on Education and Cultural Affairs

LD 270 An Act to Amend the Regional Adjustment Index to Ensure School Districts Do Not Receive Less than the State Average for Teacher Salaries

Committee on Health and Human Services

LD 372 An Act to Provide Children Access to Affordable Health Care

LD 1574 An Act to Ensure Support for Adults with Intellectual Disabilities or Autism with High Behavioral Need

LD 1693 An Act to Advance Health Equity, Improve the Well-being of All Maine People and Create a Health Trust

Committee on Judiciary

LD 982 An Act to Protect against Discrimination of Public Entities

LD 1068 an Act to Restrict Weapons Pursuant to Court Order in Cases of Harassment

Committee on Labor and Housing

LD 965 An Act Concerning Nondisclosure Agreements in Employment

The subcommittee has directed the research team to use an analysis framework in the production of the racial impact statements for the pilot as follows:

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and, when feasible, conclude whether the proposed policy or proposed change to existing policy: reduces inequities for historically disadvantaged racial populations; has a neutral impact on inequities among historically disadvantaged racial populations; or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?

2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

The subcommittee provided guidance in the form of a memorandum to the pilot committees for a report back to the Legislative Council which Chapter 21 requires they submit within 30 days after adjournment of the Second Regular Session of the 130th. The Legislative Council will use the information in the reports from committees and feedback from the research team to develop a long term process for the use of racial impact statements in the Maine Legislature.

I. INTRODUCTION

During the First Regular Session of the 130th Legislature, LD 2 An Act to Require Inclusion of Racial Impact Statements in the Legislative Process was enacted as Public Law 2021, chapter 21 (Appendix A). Part of chapter 21 establishes a study directing the Legislative Council or its delegate to determine the best methods to establish and implement a system for using racial impact statements in legislation. The law provides that a racial impact statement is an assessment of the potential impact the legislation could have on historically disadvantaged racial populations. The Legislative Council named a subcommittee of 5 Council members to conduct the study and, in accordance with chapter 21, take what was learned from that study to establish a pilot project for the limited use of statements during the Second Regular Session (130th). The subcommittee membership is as follows.

- Assistant House Majority Leader, Representative Rachel Talbot Ross, Chair
- Speaker of the House, Representative Ryan Fecteau
- House Republican Leader, Representative Kathleen Dillingham
- Assistant Senate Majority Leader, Senator Matthea Daughtry
- Assistant Senate Minority Leader, Senator Matt Pouliot

The Legislative Council Subcommittee to Establish a Racial Impact Statement Process Pilot (the subcommittee) held 4 meetings, and in fulfillment of their charge: reviewed racial impact statements used in other states; considered what information, analysis and data sources are necessary to produce racial impact statements; looked at which policy areas would most benefit from a racial impact analysis; and considered what costs would be associated with producing racial impact statements. Meetings of the subcommittee were conducted using Zoom, livestreamed via the Legislature's YouTube channel and broadcast over the audio streaming service.

During the course of its work, the subcommittee tasked the chair, Rep. Talbot Ross and staff to work with representatives of the University of Maine System (including the Cutler Institute and the Margaret Chase Smith Policy Center) and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations (the Permanent Commission) to explore the potential for these groups to participate in the pilot program to implement a racial impact statement process. This effort proved to be productive and resulted in a proposal for a pilot supported by the subcommittee¹. Included in the proposal was a description of these organizations which would come to be referred to as the "research team."

The Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations.

The Permanent Commission was established by the Legislature and signed into law in 2019. It is an independent entity with a mission to address systemic racism by examining racial disparities across all systems and working to improve the status and outcomes for historically disadvantaged racial, indigenous, and tribal

¹ Two votes were held on the proposed pilot and both were unanimous of those present. Present for the vote on October 27, 2021 were Representatives Talbot Ross and Dillingham, Speaker Fecteau and Senator Daughtry. Present for the vote on December 10 were Representative Talbot Ross, Speaker Fecteau and Senator Daughtry.

populations. The Commission is empowered to advise all three branches of state government and to submit legislation.

The Cutler Institute

As the research arm of the Muskie School of Public Service, the Cutler Institute collaborates with partners throughout the nation and across the world to find sustainable practical solutions to critical societal issues. The experienced staff of the Cutler Institute work collaboratively to help organizations and communities thrive in a changing world by translating knowledge and best practices into sustainable solutions that are responsive to societal needs and focused on both short-term and long-term outcomes. Cutler Institute staff bring decades of experience and advanced degrees in areas of policy, social work, law, education, business administration, and public health. The institute's multidisciplinary approach allows us to provide innovative outcomes to complex local, national, and international issues.

The Margaret Chase Smith Policy Center

Created in 1989, the Margaret Chase Smith Policy Center is a nonpartisan, independent research and public service unit of the University of Maine. The Center was named to continue the legacy of Senator Margaret Chase Smith who served as a model of civil discourse and integrity. The Policy Center informs public policy processes and societal decision-making through timely research and applied public policy activities focused on critical issues facing Maine and the nation.

II. SUBCOMMITTEE PROCESS

The subcommittee held a total of 4 meetings, a summary of each is provided in this section.

First meeting – October 6, 2021

At its first meeting, the subcommittee reviewed the authorizing legislation and received a presentation on laws governing racial impact statements in states which currently incorporate them into their legislative processes (Appendix B). The subcommittee was also presented with a range of sample statements produced for use in some of those states. Subcommittee members reviewed two charts listing 9 states (Colorado, Connecticut, Florida, Iowa, Maryland, Minnesota, New Jersey, Oregon and Virginia). The first chart explains the process or mechanics of the racial impact statement; how a statement is initiated, the scope of the statement and how (or at what stage) it is incorporated into the legislative process. The second chart describes the demographic scope and data sources used in the production of impact statements. With the exception of one state (Colorado), all of the impact statements summarized in the charts provide an analysis of proposed legislation addressing criminal justice matters, several relying heavily on incarceration and crime-rate statistics in combination with general census/demographic data.

Subcommittee members discussed the presentation in depth and reviewed sample statements from three states (Iowa, Minnesota and Oregon – See Appendix B). Samples were selected to

show the range of information and analyses provided. Statements in Iowa are produced by nonpartisan legislative staffers and contain information that is primarily demographic and quantitative. The sample statement from Minnesota reviewed by subcommittee members had a strong quantitative focus but went further in predicting outcomes on the number of felony offenders and the prison population, including a demographic breakdown, associated with the crime discussed in the subject legislation. Statements in Minnesota are produced by the Minnesota Sentencing Guidelines Commission. The third sample statement reviewed by the subcommittee was produced by the Oregon Criminal Justice Commission. This statement looks at the racial and ethnic impact to the criminal offender population including those convicted of the crime which is the subject of the proposed legislation. At a subsequent meeting, subcommittee members discussed statements produced in Florida by Florida State University College of Criminology and Criminal Justice, which include quantitative information but also include conclusions drawn upon analyses which are much more qualitative in nature than the other sample statements reviewed.

Second meeting – October 13, 2021

After the extensive discussion of the elements of racial impact statements at the first meeting, subcommittee members were interested in how statements produced in other states were used and how effective they were at informing legislative decision-making. Members reviewed articles which examined the impact of impact statements from Iowa (See Appendix C). As expected, these articles noted that data limitations influence how robust a racial impact analysis will be, thus impacting their effectiveness as a tool to influence policy-making. Subcommittee members identified this limitation as useful information in and of itself, highlighting how targeted, consistent data collection (by state agencies and others who administer programs/policies) is a critical element to consider when establishing benefit programs, creating new crimes, amending criminal penalties and creating regulatory frameworks. Knowledge of where data is not available, but could be collected, could serve as an agent of change in policy making and legislative oversight.

At this meeting, subcommittee members also took on the effort to narrow the bigger vision for the long-term use of racial impact statements into something that would make a feasible pilot program. Chapter 21 requires that at least one, but no more than 4, joint standing committees be included in the pilot program. Although not finally decided until the next meeting, members suggested committees to be included, considering which oversee programs and policies where there may be potential racial disparities, which deal with matters addressing basic human needs/quality of life, and which may already have data collection components built in to those programs. Additionally, members began a discussion on what sort of measures would make a racial impact statement most useful – in other words – what questions, if answered by a racial impact analysis, would be most informative to policymakers.

Included in a staff memo offering a potential framework for narrowing the focus, was a question asking who should be tasked with producing the statements (in the pilot and long-term). This question highlighted that the parameters governing nonpartisan legislative staff may not allow for the type of analysis intended for racial impact statements if the statements are produced by them. Given that some states, like Florida, Minnesota and Oregon use outside entities to assist

with the production of statements, subcommittee members expressed an openness to exploring a similar path.

Third meeting – October 27, 2021

In the time period between the second and third meeting, Representative Talbot Ross and staff met with representatives of the University of Maine System and the Permanent Commission to explore ways in which they could play a role in the pilot program. On October 27, Representative Talbot Ross presented a draft proposal for a pilot structure as written by Dr. Meadow Dibble of the Permanent Commission (See Appendix E). The subcommittee considered this proposal in depth, paying particular attention to a framework which would govern the analysis conducted for racial impact statements. The framework proposed was based on a Guide for Racial Equity in the Research Process by the Urban Institute (see Appendix D). Members supported the framework generally, but wanted to add some clarifying language so that it serves as a useful guide to those who will be preparing the statements in this pilot. They agreed to add language to ensure the analysis would draw a conclusion as to whether the proposed legislation reduced a racial disparity, exacerbated a disparity or had no impact. Further, if a conclusion is not feasible, the framework directs that barriers to reaching one be identified (such as lack of data) in the statement.

During the course of this meeting, the subcommittee also agreed upon which committees would be subject to the pilot.

- Education and Cultural Affairs
- Health and Human Services
- Judiciary
- Labor and Housing

The members also decided that the bills subject to the pilot would be limited to those carried over from the First Regular and First Special Session, excluding concept drafts. Bills carried over from a previous session have already been drafted and referred and may have had the benefit of public hearing. Subcommittee members recognized that selecting from this pool of LDs would be efficient time-wise given that the pilot will take place during the short session and committees are completing their work at the beginning of March.

Again, the subcommittee chair Rep. Talbot Ross was tasked with working with the University of Maine System and the Permanent Commission to determine the number of bills for which they could provide a statement before the end of February and to confirm that, just for the pilot, they could do so using their own resources (no funds from the Legislature). Once those details were determined, the subcommittee would meet one last time to finalize the pilot program. Two meetings with Rep. Talbot Ross, staff, the University of Maine System and the Permanent Commission were held between the third and fourth meeting of the subcommittee.

Fourth meeting – December 10, 2021

At the final meeting, subcommittee members received an update on the progress made with the University of Maine System and the Permanent Commission towards establishing their role in the pilot. Staff provided a recap of two meetings, one in which the parameters governing statements were discussed and refined in accordance with the direction given by the

subcommittee on October 27. The other meeting focused on estimating a number of bills for which it would be feasible to produce a statement in the limited timeframe and choosing which bills would be the best subjects for a pilot, both in terms of the quality of the statement to be produced and providing a range of subjects to be analyzed. Rep. Talbot Ross then presented a list of bills she proposed be the subjects of the pilot to implement a racial impact statement process.

The subcommittee voted to approve the refined parameters established to govern the content of racial impact statements and, after lengthy discussion, agreed upon 7 LDs (carried over from the first regular/special session) for which statements will be produced for the pilot program. Additionally, members considered what sort of information they would like to receive from committees which are subject to the pilot, in terms of a report back, once the Second Regular Session of the 130th has concluded. They determined that feedback from those who produced the statements will be critical as well in developing a permanent plan for incorporating racial impact statements into the legislative process. Lastly, the subcommittee discussed providing a communication to the pilot committees upon the commencement of the Second Regular Session sharing direction on how to integrate racial impact statements into their deliberations on legislation and stating expectations for reports required pursuant to Public Law 2021, chapter 21.

III. PROPOSED RACIAL IMPACT STATEMENT PROCESS PILOT

This section outlines the framework of the pilot project developed by the subcommittee over the course its work. The goal of the pilot is to inform the implementation of an ongoing future process to incorporate racial impact statements into the deliberations and policy-making by the Maine Legislature. The goal of the statement is to provide useful analysis to legislators regarding proposals for new programs and laws or amendments (including repeal) to existing ones in terms of how those proposals may impact historically disadvantaged populations in our state.

A. Parameters governing the content of racial impact statements

The University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy Center, and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations agreed to work with the Maine Legislature to provide racial impact statements on select legislation chosen to be part of the pilot. The subcommittee considered and voted in support of the following framework which will govern what is considered in the analysis to produce racial impact statements. The framework includes questions, which if answered, will provide critical information to legislators in their decision-making process as it applies to historically disadvantaged populations. Thus, when conducting the analysis for racial impact statements on bills subject to the pilot project, the teams within the University of Maine System and the Permanent Commission will be guided by this framework.

Analysis Framework for Racial Impact Statements

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and,

when feasible, conclude whether the proposed policy or proposed change to existing policy: reduces inequities for historically disadvantaged racial populations; has a neutral impact on inequities among historically disadvantaged racial populations; or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

B. Role of the University of Maine System and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations

The University of Maine System and the Permanent Commission (referred to as the “research team” during subcommittee discussions) agreed to conduct the analysis, using the prescribed framework, to produce racial impact statements for the bills selected for the pilot. The University of Maine System will tap its extensive resources such as the Cutler Institute, including its Data Innovation Project which is “an initiative focused on building the data-informed capacity of Maine’s mission driven organizations.” They will also rely on the Margaret Chase Smith Policy Center and tap the expertise of the School of Law and the Maine Education Policy Research Institute.

The primary role of the University of Maine System will be to carry out the quantitative research and analysis. As co-equal collaborators in the development of racial impact statements, the Permanent Commission will head up the qualitative research and analysis among the impacted communities. Additionally, and critical to the evaluation of the pilot, the research team will provide a report on the time required to produce a statement, an estimate of the financial resources necessary to produce them on a larger scale and an assessment of the availability of current, relevant data to provide useful statements in the future.

For the limited pilot, this work will be done within their own resources, requiring no expenditure from the Legislature.

C. Legislation to be included in the pilot

Subcommittee members employed multiple strategies to determine the list of bills that would receive racial impact statements under the pilot. First, they selected the committees which would

be part of the pilot as the authorizing legislation required at least one, but no more than 4 be included. Second, the subcommittee decided that the bills selected would come from the limited pool of those that had been carried over from the First Regular or First Special Session of the 130th. As stated earlier in this report, the subcommittee determined that because carryover bills have already been drafted and likely had the benefit of a public hearing, the research team could get started as soon as possible on developing the statements for which the subcommittee set a deadline of late February (100% voting deadline for committees is generally early March during a short session). Third, they worked with the research team to select bills which would be good candidates for the pilot. Collectively, they considered bills that would cover various topics, including those that have an evident connection to issues related to historically disadvantaged racial populations and those where that connection may not be outwardly obvious but where a disparity might be embedded or systemic. Making efficient use of expertise among the resources within the research team was also considered when selecting the bills so that work would not fall too heavily on any one person or group. Thoughtful application of these strategies resulted in the following list of bills selected for the pilot.

LD #	Title	Committee
270	An Act to Amend the Regional Adjustment Index to Ensure School Districts Do Not Receive Less than the State Average for Teacher Salaries	Education and Cultural Affairs
372	An Act to Provide Children Access to Affordable Health Care	Health and Human Services
1574	An Act to Ensure Support for Adults with Intellectual Disabilities or Autism with High Behavioral Need	Health and Human Services
1693	An Act to Advance Health Equity, Improve the Well-being of All Maine People and Create a Health Trust	Health and Human Services
982	An Act to Protect against Discrimination of Public Entities	Judiciary
1068	An Act to Restrict Weapons Pursuant to Court Order in Cases of Harassment	Judiciary
965	An Act Concerning Nondisclosure Agreements in Employment	Labor and Housing

D. Guidance to pilot committees

Public Law 2021, chapter 21 requires the joint standing committees selected for the pilot to submit a report back to the Legislative Council within 30 days after the adjournment of the Second Regular Session of the 130th. In addition to the list provided in chapter 21², the subcommittee provided a guidance memo to the committees asking them to consider the following in their report back (See Appendix F):

- Whether the timeframe in which the racial impact statement was provided to the committee was useful, or whether receipt of the racial impact statement at a different point in time might have proven more useful;
- How much, if any, additional time did the committee devote to discussion and consideration of the bill as a result of the racial impact statement;

² Some of the elements required in the pilot committee reports specified in PL 2021, c. 21 may not align with the pilot as it was designed by the subcommittee, prompting the additional report requirements in guidance memo.

- Whether the information provided in the racial impact statement served to advance discussion of the bill in committee;
- Whether information provided in the racial impact statement influenced the development by the committee of amendments to the bill;
- Whether the information provided in the racial impact statement had an impact on the committee's vote on the bill; and
- An additional observations or suggestions concerning the committee's experience with the racial impact statement process pilot.

These reports, in combination with the feedback from the research team, will be used to assist the Legislative Council in implementing an ongoing process for incorporating racial impact statements into the legislative process.

APPENDIX A

Authorizing Legislation: Public Law 2021, chapter 21

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

H.P. 5 - L.D. 2

An Act To Require the Inclusion of Racial Impact Statements in the
Legislative Process

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 2 MRSA c. 7 is enacted to read:

CHAPTER 7

RACIAL IMPACT STATEMENTS

§201. Information regarding racial impact statements

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Legislative committee" means a joint standing committee of the Legislature, a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business.

B. "Racial impact statement" means an assessment of the potential impact that legislation could have on historically disadvantaged racial populations.

C. "State agency" means a state department, agency, office, board or commission or a quasi-independent agency, board, commission, authority or institution.

2. Racial impact statement information. Upon the request of a legislative committee, a commissioner or director of a state agency or the commissioner's or director's designee shall provide to that legislative committee data, analysis and other information within the agency's possession necessary for the Legislature to prepare a racial impact statement for legislation before that legislative committee or legislation being prepared by that legislative committee. The racial impact statement information must be provided in a timely manner.

Sec. 2. Implementation of racial impact statement process pilot project.

The Legislative Council or its delegate shall perform a study to determine the best method to establish and implement a system of using racial impact statements for legislation. For purposes of this section, "racial impact statement" means an assessment of the potential impact that legislation could have on historically disadvantaged racial populations.

1. Study. In making the determination required by this section, the Legislative Council shall study and consider:

- A. What has been done in other states to accomplish the development and use of racial impact statements;
- B. What data, analysis or other information is needed to produce a racial impact statement and what the best source of that data, analysis or other information is, such as, but not limited to, an executive branch department or agency;
- C. Specific policy areas that would benefit from the use of racial impact statements, including, but not limited to, education; health care; employment, including wages; housing, including home ownership; and criminal justice and public safety;
- D. The costs of implementing the use of racial impact statements, either on a limited basis, such as for certain committees, policy areas or instruments, such as committee or floor amendments, or for all joint standing committees and all legislation; and
- E. Anything else the Legislative Council considers relevant.

2. Findings; recommendations for limited pilot project. The Legislative Council shall complete its study under subsection 1 no later than November 1, 2021 and compile a report with its findings. Based on the information gathered pursuant to subsection 1 and its findings, the Legislative Council shall implement, no later than December 1, 2021, a pilot project for the limited use of racial impact statements in the Second Regular Session of the 130th Legislature.

In determining the scope of the pilot project, the Legislative Council shall consider:

- A. Which joint standing committees will participate in the pilot project, which must be at least one but not more than 4;
- B. What legislation, such as bills, committee amendments and floor amendments, will be subject to racial impact statement review;
- C. What standards will be used to review legislation under paragraph B;
- D. What resources or adjustments to the committee process will be needed to facilitate the inclusion of racial impact statements;
- E. The cost required to implement such a pilot project;
- F. Information or other resources needed to compile racial impact statements; and
- G. Any other information relevant to the Legislative Council.

3. Report by pilot project committees. The chairs of each joint standing committee that was a part of the pilot project established pursuant to subsection 2 shall provide a report to the Legislative Council no later than 30 days following adjournment of the Second Regular Session of the 130th Legislature. The report must include:

- A. The number of pieces of legislation and the types of legislation for which racial impact statements were requested and used;
- B. The manner in which the racial impact statements were obtained or developed;
- C. The amount of time, both as an average and individually, needed to develop each racial impact statement; and
- D. The cost, if any, to the joint standing committee from obtaining or developing racial impact statements.

Based on the report of the joint standing committees, the Legislative Council shall determine whether to expand or eliminate the use of racial impact statements and make that recommendation to the Legislative Council of the 131st Legislature no later than December 15, 2022.

APPENDIX B

**Charts on other states' racial impact statements and
sample statements from Iowa, Minnesota and Oregon**

Process/mechanics of racial impact statements in other states

State	When enacted?	How is the statement initiated or requested?	What is the scope of the statement?	Who generates the statement?	At which stage in the legislative process is it provided?
Colorado	2019	The Speaker, President and minority leaders may each request the preparation of a "demographic note" on up to 5 legislative bills each – using a form available from staff. (or up to 20 per session)	The statement outlines the potential effects of a measure on disparities within the state, including whether it will increase or decrease disparities. Disparities means the difference in economic, employment, health, education, or public safety outcomes between the state population as a whole and subgroups of the population	Legislative Council Staff	<p>A note is prepared based on the most recent version of the legislation at the time of the request and generally within 14 days of the request.</p> <p>Notes can be amended if the measure is amended.</p> <p>Requests are not permitted in the last 21 days of a session.</p> <p>Notes may not be requested for appropriation bills</p>
Connecticut	2008	A majority of committee members may request a racial and ethnic impact statement for bills with a favorable vote which, if passed, would increase or decrease the pretrial or sentenced population of correctional facilities in the state	Whether the bill would have a disparate impact on the racial and ethnic composition of the correction facilities population	The office of Legislative Research and the Office of Fiscal Analysis	No later than 10 days after the deadline (imposed by Joint Rule) by which the committee must vote to report favorably
Florida	2019	A member of the legislature makes a request to the Office	An estimate of how the proposed legislation would	Office of Program Policy	

		of Program Policy Analysis and Government Accountability	change the racial and ethnic composition of the criminal offender population or recipients or human services (defined as persons within the jurisdiction of juvenile court or receiving child welfare services) – as well as an estimate of the racial and ethnic composition of the crime victims who may be affected by legislation.	Analysis and Government Accountability in partnership with the College of Criminology and Criminal Justice at FSU	
Iowa	2008	<p>Iowa has multiple triggers for the creation of correctional impact statements on legislation which creates a public offense, changes a penalty, sentencing or parole procedure –</p> <ol style="list-style-type: none"> 1. A committee reporting a bill may state that a statement is required 2. Legislative Services (staff) reviews all bills placed on calendar to determine if a statement is required 3. A legislator may submit a request to Legislative Services 	How the legislation will impact minorities, existing correctional institutions and the need for more capacity and the fiscal impact of confining persons pursuant to the legislation	Legislative staff	Prior to debate on the floor
Maryland	2021 (pilot)	Unclear based on current information available – but statements under the pilot will	The impact of the bill on each racial minority group,	Department of Legislative Services	Unclear based on current information available –

		apply to criminal justice bills that create a new offense, alters existing offenses, alters penalties, sentencing, parole or probation procedures	correctional facilities and services		
Minnesota	2008	A legislator may request a statement on a proposed crime bill from an authorized clearinghouse and information center (Minnesota Sentencing Guidelines Commission) Minnesota statements are NOT required, but available upon request from an outside, approved entity. Certain thresholds within a proposed crime bill must be met for MSGC to agree to conduct the analysis.	A before-and-after demographic group comparison of the number of offenders that may be convicted or imprisoned under the new crime bill if enacted and percentage change over prior years	Minnesota Sentencing Guidelines Commission	Not specified
New Jersey	2018	Prepared for all bills that would affect pretrial detention, sentencing, probation/parole policies impacting adults and juveniles	An assessment of the potential impact on racial and ethnic minorities including whether it will have a disproportionate or unique impact, the rationale for having an impact, a statistical analysis of how the change will affect racial and ethnic minorities, impact on correctional facilities and services for minorities and the anticipated effect on public safety in racial and ethnic communities	Office of Legislative Services	Prior to a vote on the floor

Oregon	2013	Written request signed by one member of the Assembly from each major political party	(For racial and ethnic groups for which data is available) Impacts on the racial and ethnic composition of the criminal offender population or recipients of human services (persons under jurisdiction of juvenile court or who receive child welfare services. Estimate of the racial and ethnic composition of crime victims who may be affected.	Oregon Criminal Justice Commission	Not specified for proposals considered by the Assembly (some specifics with regard to statements on referenda)
Virginia	2021	At request of Chair of House Committee for Courts of Justice or the Chair of the Senate Committee on the Judiciary (a limit of 3 each per session)	An outline of the potential impact of a criminal justice bill on racial and ethnic disparities using available data	Joint Legislative Audit and Review Commission	Not specified

Demographic scope and data sources used by states requiring impact statements

State	Demographic scope	Data sources
Colorado	Population subgroups for which the note will assess disparities impacts are defined as socioeconomic status, race, ethnicity, sex, gender identity, sexual orientation, disability, geography or other relevant characteristics for which data is available	Based on a staff description of the process, departments and agencies are noted specifically as data sources. It also states that notes are informed by a variety of source in order to incorporate a balance of data types and informed perspectives to ensure sound research methods and substantiated conclusions. Sources are vetted using standards for sound research.
Connecticut	Racial and ethnic composition of pretrial and sentenced population in correctional facilities	Not specified, but the law authorizes Legislative staff to consult with any person or agency including but not limited to the Judicial Branch, the Office of Policy and Management, the Department of Corrections, and the Connecticut Sentencing Commission
Florida	Racial and ethnic composition of the criminal offender population and persons who are with in the jurisdiction of juvenile court or who receive child welfare services	Not specified (although may be outlined in contract with FSU – info unavailable at this time)
Iowa	Gender and ethnicity (Caucasian, African American, American Indian/Alaska Native, Asian, Hawaiian/Pacific Islander, Hispanic, other)	Not specified in law but sample impact statement list the following: Federal and State Census, U.S. DOJ, state agencies like Corrections, Criminal Justice and Juvenile Justice Planning Division, Human Rights Department
Maryland	Racial minorities – defined as African American/Black, Hispanic/Latino, American Indian/Alaska Native, Native Hawaiian/Pacific Islander	Not specified
Minnesota	Male, Female, White, Black, American Indian, Asian, Hispanic (also broken down by judicial districts)	
New Jersey	Not defined	State agencies are required to make data available to the Office of Legislative Services for the purpose of preparing statements
Oregon	Not defined (but could be proposed in Rule)	Not specified
Virginia	Not specified	Requirement that Office of the Executive Secretary of the Supreme Court, Virginia State Police, Criminal Sentencing Commission, Corrections, and all other agencies provide necessary data expeditiously



**LEGISLATIVE
SERVICES AGENCY**

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TO: Members of the Iowa General Assembly
FROM: Holly M. Lyons, Fiscal Services Division Director
SUBJECT: Minority Impact Statement
DATE: January 15, 2020

Pursuant to Iowa Code section 2.56(1), the Legislative Services Agency is required to determine the potential correctional impact on minorities of proposed legislation that creates a public offense, changes a current offense, or changes existing correctional procedures. Minority persons are defined in Iowa Code section 8.11 as women, persons with a disability, African Americans, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans. Disability is defined in Iowa Code section 15.102(10)(b)(1). The statements below provide background information regarding minorities in the correctional system from a national and State perspective.

Federal and Iowa Census Information

The U.S. Census permits people to identify their race and ethnicity. The table below provides the latest census estimates as of July 1, 2018. The population estimate for Iowa was 3.2 million. In addition, approximately 11.8% of Iowa's population had at least one disability in 2018.

	Total Population	Male	Female	Caucasian	African American	American Indian/Alaska Native	Asian	Hawaiian/ Other Pacific Islander	Hispanic
National Census	327.2 million	49.2%	50.8%	72.2%	12.7%	0.9%	5.6%	0.2%	18.3%
Iowa Census	3.2 million	49.6%	50.4%	90.2%	3.6%	0.4%	2.5%	0.1%	6.1%

Federal and Iowa Prison System Information

The U.S. Department of Justice (DOJ) estimates there was a total of 1.5 million prisoners in federal or state prisons on December 31, 2017 (the most recent data available). The table below provides national statistics for offenders sentenced to more than one year of incarceration in Calendar Year 2017. The Iowa prison population and racial composition data are as of June 30, 2019.¹ At the close of FY 2019, there were 8,474 inmates in Iowa prisons.

	Total Population	Male	Female	Caucasian	African American	American Indian/Alaska Native	Asian/Pacific Islander	Hispanic	Other or Unknown
National Prison Population	1,489,363	92.5%	7.5%	30.3%	33.1%	N/A	N/A	23.4%	13.3%
Iowa Prison Population	8,474	91.4%	8.6%	65.6%	25.3%	1.8%	0.8%	6.5%	0.0%

¹ 2019 Prison Population Forecast, Criminal and Juvenile Justice Planning Division.

Federal and Iowa Probation and Parole Information

According to the U.S. Department of Justice, on December 31, 2016, there were 3.7 million offenders on probation supervision and 874,800 offenders on parole supervision (the most recent data available). The table below provides national statistics by gender and race for those populations.

According to the DOC, on June 30, 2019, there were 30,992 Iowa offenders under supervision in Community-Based Corrections (CBC). Data from the Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights (DHR) showing the gender and racial composition of the CBC offender population is included in the table below.

	Population	Male	Female	Caucasian	African American	Asian/Pacific Islander	American Indian/Alaska Native	Other/Unknown	Hispanic
National Probation Supervision	3,673,100	75.0%	25.0%	55.0%	28.0%	1.0%	1.0%	N/A	14.0%
National Parole Supervision	874,800	87.0%	13.0%	45.0%	38.0%	1.0%	1.0%	N/A	15.0%
Iowa CBC	30,090	73.0%	27.0%	74.0%	17.0%	1.0%	1.0%	0.1%	6.0%

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Doc ID 1074340

Demographic Impact Statement

House File 2013-1CE

Marijuana Offenses Thresholds Adjusted

Statement Date: May 12, 2020

The staff of the Minnesota Sentencing Guidelines Commission (MSGC) prepares demographic impact statements for proposed crime bills when it appears that the bill's policy changes would likely increase or decrease the number of people convicted of felonies each year by 50 or more; when it appears that the bill's policy changes would likely increase or decrease the annual need for prison beds by 10 or more; or upon legislative request.

Bill Description

HF 2013, 1st Committee (Division) Engrossment, reclassifies certain nonresinous marijuana sale and possession offenses that now qualify as fifth-degree felony offenses. It establishes a new statute (Minn. Stat. § 152.0251) for nonfelony marijuana offenses with penalties based on the quantity of marijuana sold or possessed, or possession of marijuana in a motor vehicle.

Within the new statute, the bill establishes new gross misdemeanor and misdemeanor possession offenses (Minn. Stat. § 152.0251 subd. 2) for possessing a total weight of 250 grams or less of the nonresinous form of marijuana. The bill establishes new gross misdemeanor and misdemeanor sale offenses (Minn. Stat. § 152.0251 subd. 1) for selling a small amount (42.5 grams or less) of nonresinous marijuana for remuneration.

The bill amends Minn. Stat. § 152.025 so that the following offenses remain fifth-degree felony offenses: sale or possession of resinous marijuana; sale of more than a small amount of nonresinous marijuana; and possession of 250 grams of nonresinous marijuana (under new subd. 2(3)).

Sale for no remuneration, and possession, of a small amount of nonresinous marijuana remain petty misdemeanors, but those offenses are recoded under Minn. Stat. § 152.0251 subd. 5. The existing petty misdemeanor provision (Minn. Stat. § 152.027 subd. 4) is repealed. Also repealed are the following related provisions: a provision under which petty misdemeanor violators must generally complete a state-approved drug education program; a misdemeanor penalty for willful failure to comply with the petty misdemeanor sentence; and a requirement for repeat petty misdemeanor violators to generally be required to complete a chemical dependency evaluation and, if indicated, treatment.

The bill recodes the misdemeanor offense of possession of marijuana in a motor vehicle (from Minn. Stat. § 152.027 subd. 3 to § 152.0251 subd. 4) and increases the weight threshold from 1.4 grams to 5 grams.

The offenses, threshold amounts for nonresinous marijuana, existing and new penalty levels, and new statutory references are displayed in Table 1.

Table 1. Threshold Amounts for Nonresinous Marijuana, Existing and New Penalty Levels

Offense	New Amounts (grams)	Existing Penalty Level	New Penalty Level	New Minn. Statute section 152
Sale	>42.5	Felony	Felony	.025, subd. 1(1)
Sale – For Remuneration	>10-42.5	Felony	Gross Misdemeanor	.0251, subd. 1(1)
Sale – For Remuneration	10 or less	Felony	Misdemeanor	.0251, subd. 1(2)
Sale – No Remuneration	42.5 or less	Petty Misdemeanor	Petty Misdemeanor	.0251, subd. 5(2)
Possession	>250	Felony	Felony	.025, subd. 2(1), (3)
Possession	>100-250	Felony	Gross Misdemeanor	.0251, subd. 2(1)
Possession	>42.5-100	Felony	Misdemeanor	.0251, subd. 2(2)
Possession	42.5 or less	Petty Misdemeanor	Petty Misdemeanor	.0251, subd. 5(2)
Possession in Motor Vehicle	>5	Misdemeanor (>1.4 grams)	Misdemeanor	.0251, subd. 5(2)

The bill is effective August 1, 2020, and applies to crimes committed on or after that date.

Estimated Impact

In its fiscal note, MSGC staff estimated that the bill would likely result in 193 fewer felony offenders annually and an eventual prison reduction of 10 beds. This estimate relied on drug-quantity data collected from the criminal complaints of felony drug offenses committed on or after August 1, 2016, and sentenced in 2016, 2017 and 2018 (“post-DSRA sample”); and data collected on whether the marijuana was described in the complaints as resinous (e.g., hash oil or marijuana wax) or nonresinous (i.e., herbal), with respect to both the post-DSRA sample and all felony marijuana cases sentenced in 2018 generally.

The 23 fifth-degree marijuana offenders sentenced in 2018 who received prison are expected to eventually require 28 beds a year. If bed usage is reduced by the same percentage as the percentage of beds used offenders in the post-DSRA sample who would fall below the bill’s felony thresholds (36%), it is expected that the number of beds required for fifth-degree marijuana offenders will decline by 36 percent—from 28 beds per year to 18—a 10-bed reduction. Allowing time for implementation of the modifications, it is anticipated that there will be a 5-bed reduction in FY 2021, and a 10-bed reduction if FY 2022 and every year after. The timing is provided in Table 2.

Table 2. Estimated Prison Bed Reduction by Fiscal Year

Fiscal Year	Number of Prison Beds Reduced
2021	5
2022	10
2023	10
2024	10
2025	10

Current State Demographics

Table 3 displays current demographic information pertaining to three populations within the state: the felony population (that is, the population of offenders sentenced for felony offenses in 2018); the adult prison population (as of July 1, 2018); and the general population, age 15 and older (on July 1, 2018, as estimated by the U.S. Census Bureau). Table 3 breaks down those populations by the following demographic categories: Gender; race and ethnicity; and judicial district. A map of Minnesota's ten judicial districts may be found at <http://www.mncourts.gov/Find-Courts.aspx>.

Table 3. Minnesota's 2018 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

	General Population			Felony Population			Prison Population	
	U.S. Census Category	2018 Estimated Pop. Age 15 & Older		MSGC Category	Offenders Sentenced in 2018		2018 Adult Inmate Population	
		Number	Percent		Number	Percent	Number	Percent
Race & Ethnicity	Male	2,240,025	49.5%	Male	14,566	79.7%	9,146	92.9%
	Female	2,284,777	50.5%	Female	3,717	20.3%	703	7.1%
	White*	3,785,189	83.7%	White	10,343	56.6%	4,553	46.2%
	Black or African American*	291,296	6.4%	Black	4,880	26.7%	3,492	35.5%
	American Indian*	71,013	1.6%	American Indian	1,574	8.6%	960	9.7%
	Hispanic**	210,101	4.6%	Hispanic**	948	5.2%	565	5.7%
	Asian*	238,780	5.3%	Asian	533	2.9%	264	2.7%
	Native Hawaiian/ Other Pacific Islander*	5,163	0.1%	Other/ Unknown	6	0.3%	15	0.2%
	First	636,267	14.1%	First	2,484	13.6%	863	8.8%
	Second	441,619	9.8%	Second	1,813	9.9%	1,197	12.2%
Judicial District	Third	388,888	8.6%	Third	1,361	7.4%	711	7.2%
	Fourth	1,025,940	22.7%	Fourth	4,070	22.3%	2,606	26.5%
	Fifth	232,992	5.1%	Fifth	1,016	5.6%	433	4.4%
	Sixth	211,161	4.7%	Sixth	831	4.5%	545	5.5%
	Seventh	395,773	8.7%	Seventh	1,874	10.2%	1,097	11.1%
	Eighth	128,902	2.8%	Eighth	453	2.5%	286	2.9%
	Ninth	276,169	6.1%	Ninth	1,755	9.6%	1,000	10.2%
	Tenth	787,091	17.4%	Tenth	2,627	14.4%	1,004	10.2%
	Total	4,524,802	100.0%	Total	18,283	100.0%	9,849	100.0%

Source of July 1, 2018, population estimate: U.S. Census Bureau (August 2019).

* Not Hispanic, alone or in combination with one or more other races. Sum of percentages of residents in each racial/ethnic category exceeds 100 percent (101.7%) because residents of more than one race are counted in more than one category.

** Table 3 lists all Hispanic offenders and residents as Hispanic, regardless of race.

***The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

Source of July 1, 2018, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

Demographic Impact

Demographic Characteristics – New Felony Population

In its fiscal note, MSGC staff estimated that the bill would likely result in 193 fewer felony offenders annually. One might assume that, in the future, the demographic characteristics of the offenders moving from felony level offenses to lower level offenses will be the same as the known demographic characteristics of the offenders in the post-DSRA sample who would move out of the felony level under the bill's thresholds.

If that assumption is accurate, it is estimated that the demographic characteristics of the 193 offenders annually moving from felony to lower-level offenses as a result of this bill would be as follows.

- **Gender:** Male (95%); and Female (5%).
- **Race & Ethnicity:** White (38%); Black (50%); American Indian (3%); Hispanic (5%); Asian (4%).
- **Judicial District:** First (9%); Second (9%); Third (10%); Fourth (38%); Fifth (5%); Sixth (1%); Seventh (10%); Eighth (1%); Ninth (8%); and Tenth (9%).

Table 4, on page 5, shows the demographic change in the annual population of felony offenders sentenced that would result from the enactment of this bill, if the assumption stated above is accurate.

Table 4. Minnesota's Existing Annual Felony Population, Estimated Change in Felony Offenders Sentenced, and Estimated Resulting Annual Felony Population, by Gender, Race and Ethnicity, and Judicial District

Felony Population				Estimated Change in Felony Offenders*		Estimated Resulting Felony Population*						
MSGC Category	2018 Felony Population					No.	%	No.	%	% -point change relative to other categories**	Estimated resulting rate per 100,000*†	% change from existing felony pop.
	No.	%	Rate per 100,000†									
Race & Ethnicity	Male	14,566	79.7%	650	-183.4	95%	14,383	79.5%	-0.2%	642	-1.3%	
	Female	3717	20.33%	163	-9.7	5%	3,707	20.49%	+0.2%	162	-0.3%	
	White	10,343	56.6%	273	-73.3	38%	10,270	56.8%	+0.2%	271	-0.7%	
	Black	4,880	26.69%	1,675	-96.5	50%	4,784	26.44%	-0.2%	1,642	-2.0%	
	American Indian	1574	8.6%	2,216	-5.8	3%	1,568	8.7%	+0.1%	2,208	-0.4%	
	Hispanic	948	5.2%	451	-9.7	5%	938	5.2%		447	-1.0%	
Judicial District	Asian	533	2.9%	223	-7.7	4%	525	2.9%		220	-1.4%	
	First	2484	13.6%	390	-17.4	9%	2,467	13.6%		388	-0.7%	
	Second	1,813	9.9%	411	-17.4	9%	1,796	9.9%		407	-1.0%	
	Third	1361	7.4%	350	-19.3	10%	1,342	7.4%		345	-1.4%	
	Fourth	4,070	22.3%	397	-73.3	38%	3,997	22.1%	-0.2%	390	-1.8%	
	Fifth	1016	5.6%	436	-9.7	5%	1,006	5.6%		432	-0.9%	
	Sixth	831	4.54%	394	-1.9	1%	829	4.58%		393	-0.2%	
	Seventh	1,874	10.25%	474	-19.3	10%	1,855	10.25%		469	-1.0%	
	Eighth	453	2.5%	351	-1.9	1%	451	2.5%		350	-0.4%	
	Ninth	1,755	9.6%	635	-15.4	8%	1,740	9.6%		630	-0.9%	
	Tenth	2,627	14.37%	334	-17.4	9%	2,610	14.43%	+0.1%	332	-0.7%	
Total		18,284	100.0%	404	-193.0	100%	18,091	100.0%		400	-1.1%	

* This table's projections assume that future offenders' demographic characteristics will be similar to past offenders, as stated on page 4. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 residents age 15 and older, as shown on Table 3, "General Population" (2018 U.S. Census Bureau Estimate).

** i.e., the expected change, in percentage points, of the category's share of the annual felony population relative to the other demographic categories.

Demographic Characteristics – New Prison Population

It is estimated that the bill will result in an eventual reduction in the need for 10 prison beds. One might assume that, in the future, the demographic characteristics of the occupants of the vacated prison beds will be the same as the known demographic characteristics of the imprisoned marijuana offenders in the post-DSRA sample that would no longer receive prison sentences felonies under the provisions of this bill.

If that assumption is accurate, it is estimated that the demographic characteristics of the occupants of the vacated prison beds resulting from this bill would be as follows.

- **Gender:** Male (92.3%); Female (7.7%).
- **Race & Ethnicity:** White (23.1%); Black (63.5%); American Indian (0%); Hispanic (0%); Asian (15.4%).
- **Judicial District:** First (23.1%); Second (7.7%); Third (7.7%); Fourth (23.1%); Fifth (0%); Sixth (0%); Seventh (15.4%); Eighth (0%); Ninth (7.7%); and Tenth (15.4%).

Table 5, on page 7, shows the demographic change in the prison population that would result from the enactment of this bill, if the assumption stated above is accurate. With respect to "percent-point change relative to other categories," the column is empty because, relative to other demographic categories, none of the demographic categories would change by 0.1 percentage points or more.

Table 5. Minnesota's Existing Annual Prison Population, Estimated Change in Prison Beds Needed, and Estimated Resulting Annual Prison Population, by Gender, Race and Ethnicity, and Judicial District

	Prison Population				Estimated Change in Prison Beds Needed*		Estimated Resulting Prison Population*					
	2018 Adult Inmate Population								Percent-point change relative to other categories**		Estimated resulting rate per 100,000*f	
	MSGC Category	Number	Percent	Rate per 100,000†	Beds	Percent						
Race & Ethnicity	Male	9,146	92.9%	408	-9.2	92.3%	9,137	92.9%		408		-0.1%
	Female	703	7.1%	31	-0.8	7.7%	702	7.1%		31		-0.1%
	White	4,553	46.23%	120	-2.3	23.1%	4,551	46.25%		120		-0.1%
	Black	3,492	35.46%	1,199	-6.4	63.5%	3,486	35.43%		1,197		-0.2%
	American Indian	960	9.75%	1,352			960	9.76%		1,352		
	Hispanic	565	5.7%	269			565	5.7%		269		
	Asian	264	2.7%	111	-1.5	15.4%	262	2.7%		110		-0.6%
Judicial District	First	863	8.76%	136	-2.3	23.1%	861	8.75%		135		-0.3%
	Second	1,197	12.2%	271	-0.8	7.7%	1,196	12.2%		271		-0.1%
	Third	711	7.2%	183	-0.8	7.7%	710	7.2%		183		-0.1%
	Fourth	2,606	26.5%	254	-2.3	23.1%	2,604	26.5%		254		-0.1%
	Fifth	433	4.4%	186			433	4.4%		186		
	Sixth	545	5.5%	258			545	5.5%		258		
	Seventh	1,097	11.1%	277	-1.5	15.4%	1,095	11.1%		277		-0.1%
	Eighth	286	2.9%	222			286	2.9%		222		
	Ninth	1,000	10.2%	362	-0.8	7.7%	999	10.2%		362		-0.1%
	Tenth	1,004	10.2%	128	-1.5	15.4%	1,002	10.2%		127		-0.2%
	Total	9,849	100.0%	218	-10.0	100.0%	9,839	100.0%		217		-0.1%

* This table's projections assume that future offenders' demographic characteristics will be similar to past offenders, as stated on page 6. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 residents age 15 and older, as shown on Table 3, "General Population" (2018 U.S. Census Bureau Estimate).

** I.e., the expected change, in percentage points, of the category's share of the annual prison population relative to the other demographic categories.

Appendix: Historical Demographic Data

The following figures illustrate the change in the state's population, imprisonment rates, and felony sentencing rates for the period 2002 to 2018. Rates are per 100,000 Minnesota residents age 15 and older.

Estimated Population, Age 15 and Older

Figure 1. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Gender and Total

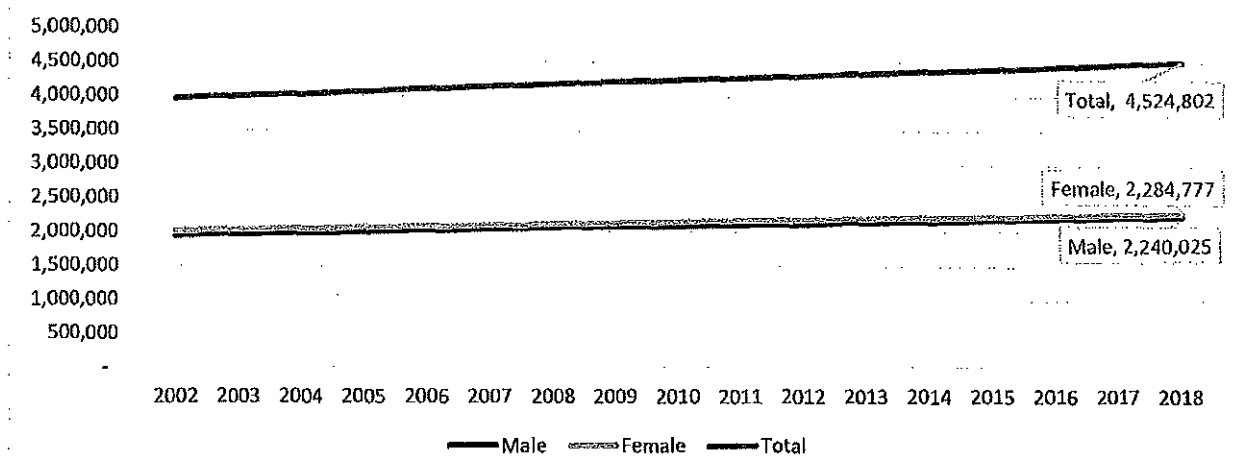


Figure 2. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Race and Ethnicity

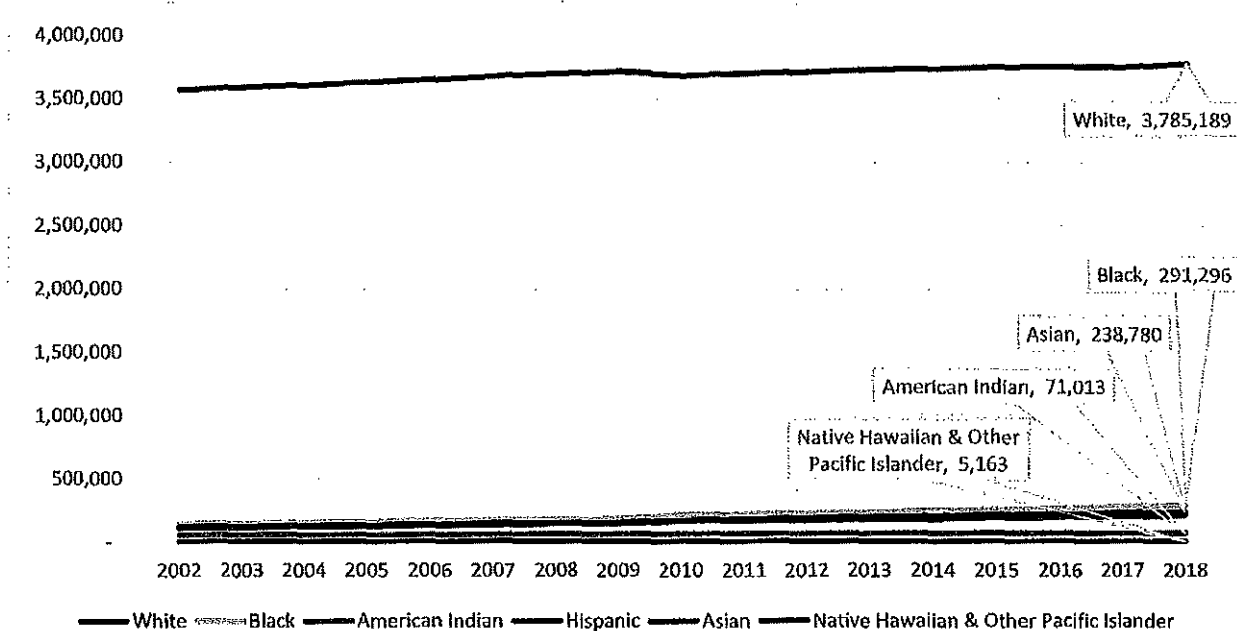
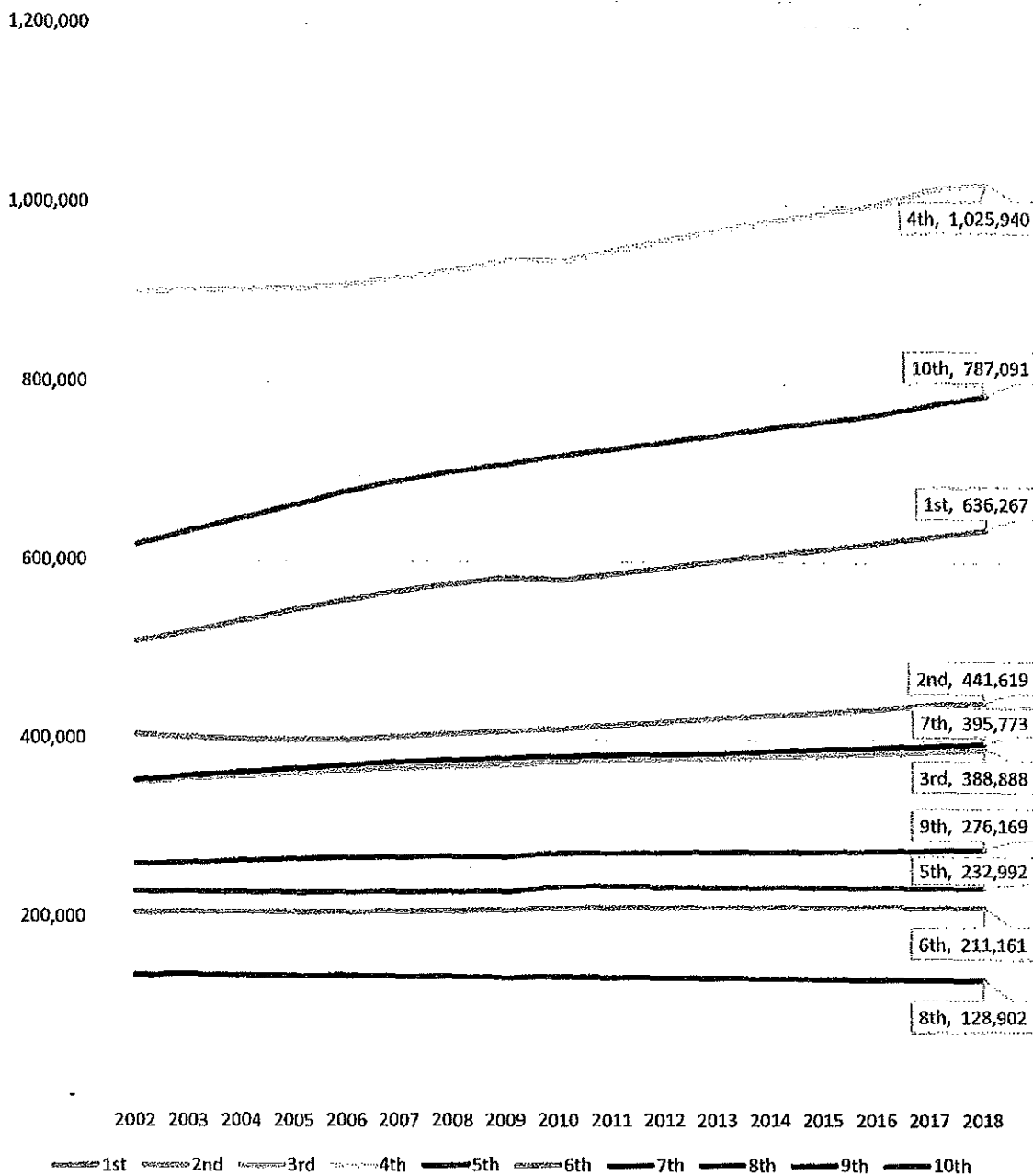


Figure 3. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Judicial District



Notes for Figure 1 through Figure 3: Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category.

Felony Sentencing Rates

Figure 4. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total



Figure 5. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

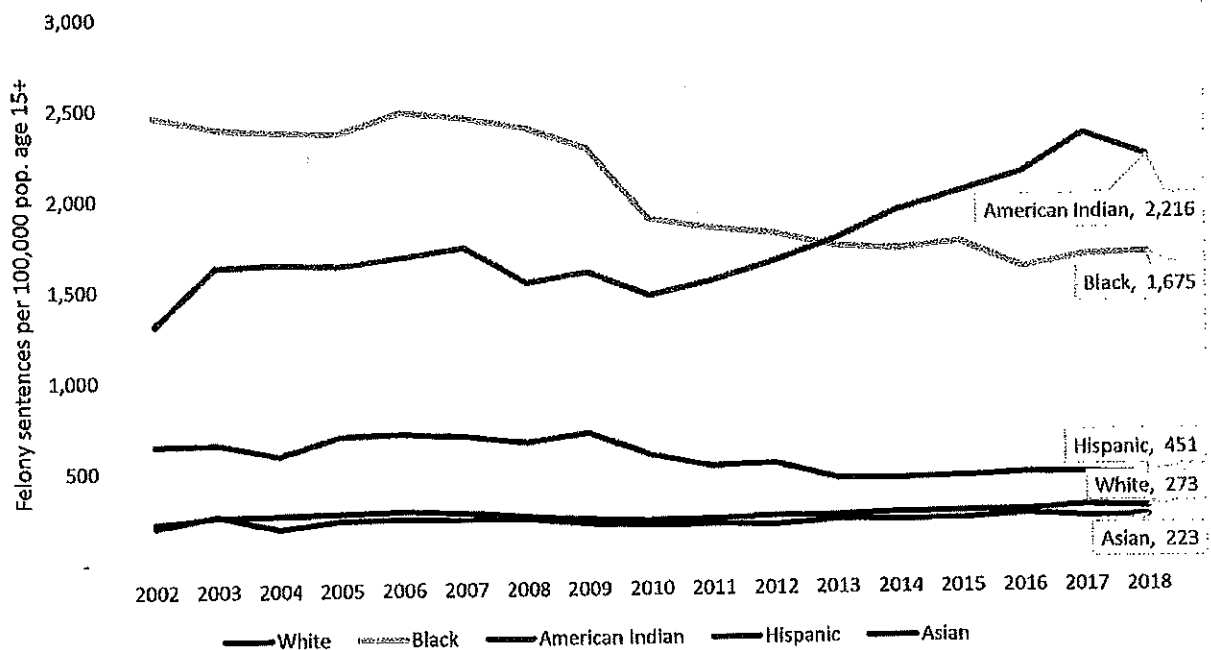
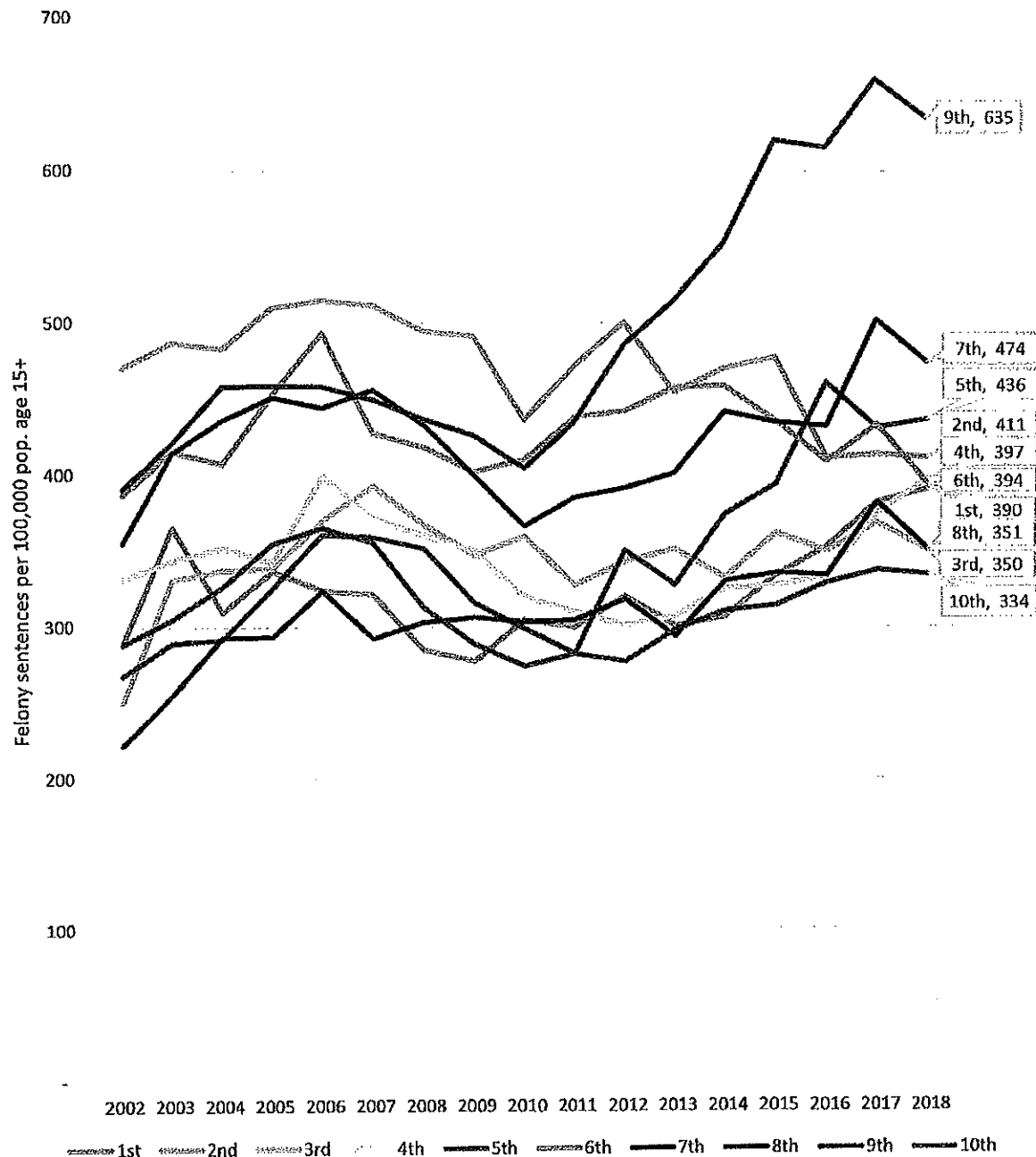


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 4 through Figure 6: Rates are felony offenders sentenced annually per 100,000 Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded.

Imprisonment Rates

Figure 7. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total

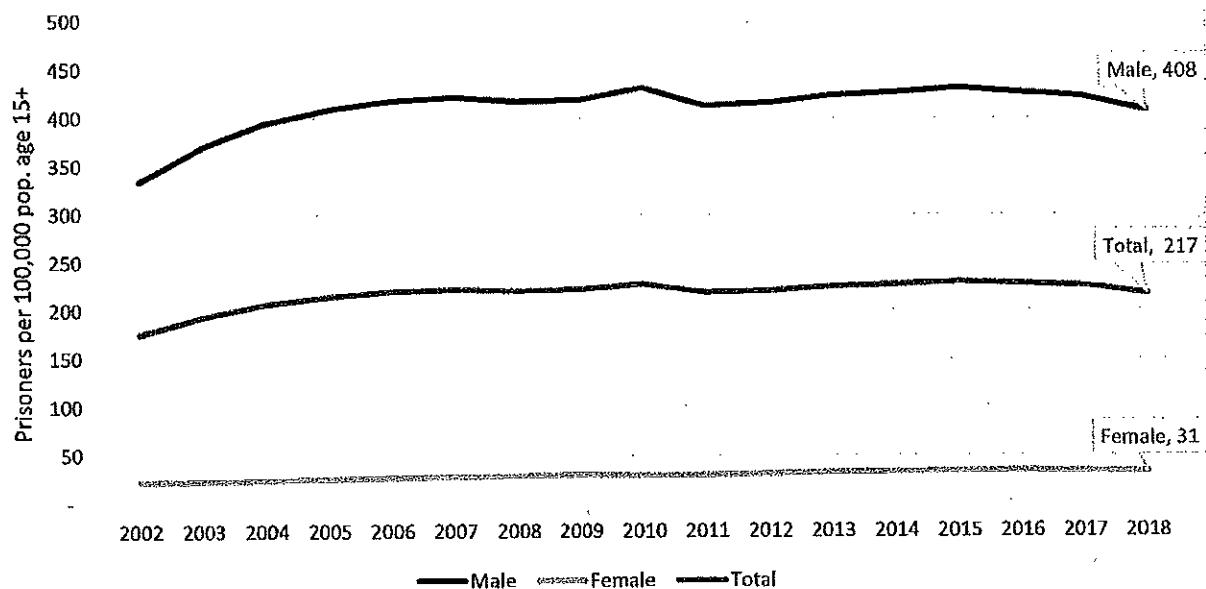


Figure 8. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

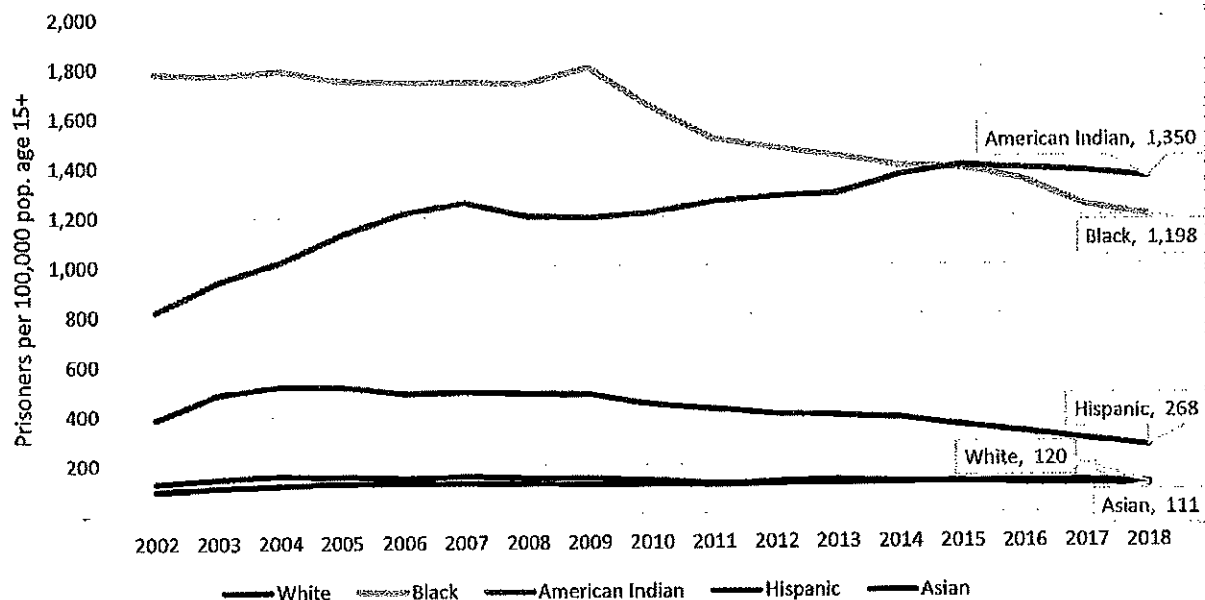
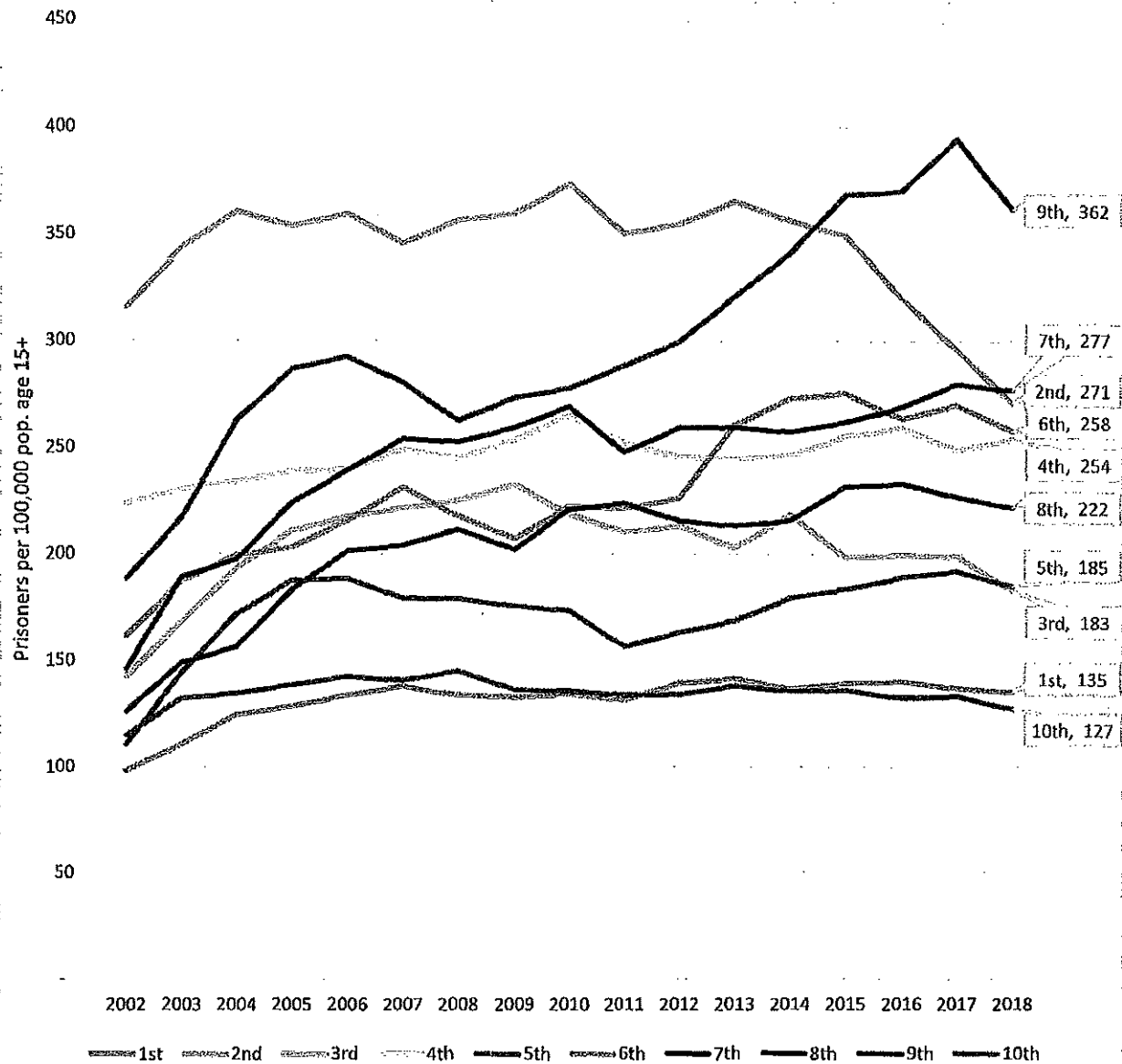


Figure 9. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 7 through Figure 9: Rates are prisoners on July 1 of the respective year per 100,000 Minnesota residents age 15 and older on the same date. Source of prison population counts: Minn. Dep't of Corrections. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded, except for 2005-07, in which case they were included in the Asian prison population counts. Not all prisoners were associated with a particular judicial district.



IP 44 Racial and Ethnic Impact Statement

Oregon Criminal Justice Commission

16 July 2020

Background

The Oregon Criminal Justice Commission (CJC) received a written request from a member of the Legislative Assembly from each major political party requesting a racial and ethnic impact statement pursuant to ORS 137.685 for a state measure that is related to crime and likely to have an effect on the criminal justice system. This request concerns ballot initiative IP 44, titled the Drug Addiction Treatment and Recovery Act¹.

This statement describes the racial and ethnic impact to the criminal offender population that includes individuals convicted of a felony or misdemeanor level drug possession offense. There are several components of IP 44 that are not related to crime or the criminal justice system, and this statement does not include the racial and ethnic impact of those components. As such, the primary focus of this analysis centers on Sections 11 through 22 of the initiative.

Table 1. Proposed Changes in IP 44 to Possession of Controlled Substances (PCS) compared to Current Law

Current Law	IP 44
Felony	Felony
Subject has a prior felony conviction	Subject is convicted of a commercial drug offense
Subject has two or more misdemeanor convictions for PCS	
Subject possesses a substantial quantity of controlled substances	
Subject is convicted of a commercial drug offense	
Misdemeanor	Misdemeanor
All other non-felony PCS	Subject possesses a substantial quantity of controlled substances
Violation	Violation
	All other non-felony and non-misdemeanor PCS

IP 44 changes the sentencing for unlawful possession of controlled substances (PCS) statutes. As shown in Table 1, under current law, PCS convictions are misdemeanors, except in certain circumstances in which they are felonies, including when the subject has a prior felony conviction, has two or more prior PCS convictions, possesses a substantial quantity, or is convicted of a commercial drug offense. IP 44 changes PCS convictions to violations except in

¹ <http://oregonvotes.org/irr/2020/044text.pdf>

certain circumstances including when the subject possesses a substantial quantity, which is a misdemeanor, or is convicted of a commercial drug offense, which is a felony.

As discussed in greater detail below, the methodology and data sources used for this statement mirror previous analyses regarding possession of controlled substances conducted by the CJC. House Bill 2355 (2017) required CJC to study the effect of the reduction in possession penalties on the criminal justice system and the composition of convicted offenders². CJC used data from the Department of Corrections (DOC) that includes felony and misdemeanor convictions for drug possession to compile that report.

Finally, this statement is required to show an estimate of the racial and ethnic composition of the crime victims who may be affected by the state measure. Unfortunately, a comprehensive data source on victims of individuals convicted of drug possession crimes is not available. The Uniform Crime Reporting (UCR) Program housed at Oregon State Police collects data on reported crime from law enforcement agencies in the state. The UCR Program recently released the Oregon Crime Data Dashboards³, which displays crimes reported to law enforcement from January to May 2020. The dashboard provides summary level data on a publicly available website that can be filtered by several variables. Under the Victims Dashboard, the data can be filtered by drug/narcotic offenses. This is more broadly defined than drug possession offenses, but is used here for example purposes. From January to May 2020, 4,796 distinct victims are displayed. The victim type for all offenses is displayed as society/public. The victim demographics that would be displayed by age, sex, and race are not available for this crime type.

Methods and Analysis

Current Convictions for PCS

CJC queried misdemeanor and felony convictions for PCS in 2019 where PCS was the most serious or only conviction.⁴ Following this definition, in 2019 there were 2,139 misdemeanor PCS convictions and 1,918 felony PCS convictions. Table 2 displays the counts by race and ethnicity.

Table 2. 2019 PCS Convictions

Race/Ethnicity	Misdemeanor	Felony	Total
Asian	16	19	35
Black	120	69	189
Hispanic	238	198	436
Native	27	25	52
Unknown	5	4	9
White	1,733	1,603	3,336
Total	2,139	1,918	4,057

² <https://www.oregon.gov/cjc/CJC%20Document%20Library/2019PCSReport.pdf>

³ <https://www.oregon.gov/osp/Pages/Uniform-Crime-Reporting-Data.aspx>

⁴ While PCS charges often accompany other felony charges, the CJC restricts the analysis to instances where PCS was the only or most serious charge because it is in those cases that CJC can best estimate the effects that IP 44 could have on the offender population. It is possible that in cases where PCS charges co-occur with other felonies, such as property or other statutory crimes, that sentencing outcomes could be different should IP 44 go into effect. However, these cases will likely result in a criminal conviction due to the determining factor of the other, more serious felonies.

Estimated Changes to PCS Population

Under IP 44, convictions for commercial drug offenses would remain felonies. To identify those offenders in 2019, CJC assumes that current felony drug PCS convictions showing a crime category 6 or higher on the sentencing guidelines grid would remain felonies. Of the total 1,918 felony convictions in 2019, five percent, or 102 total convictions, would be estimated to remain felonies under IP 44. A breakdown by race/ethnicity for these felonies is reported in the third column of Table 3.

Table 3. 2019 PCS Convictions with IP 44

Race/Ethnicity	Misdemeanor	Felony	Total	% Reduction
Asian	5	1	6	-82.9%
Black	9	3	12	-93.7%
Hispanic	40	19	59	-86.5%
Native	1	2	3	-94.2%
Unknown	2	0	2	-77.8%
White	219	77	296	-91.1%
Total	276	102	378	-90.7%

CJC assumes that 14 percent of felony PCS convictions, which amounts to 276, were for possession of a substantial quantity of narcotics, which under IP 44 would be misdemeanors. To arrive at this estimation, CJC identified the felony convictions in 2019 that were not commercial drug offenses but also were not convictions for individuals with either a felony record or a criminal history containing two or more prior PCS convictions. A breakdown by race/ethnicity for these convictions is reported in the second column of Table 3. Finally, all remaining convictions under IP 44 would be violations and would not be supervised or included in the DOC population.

Comparing Tables 2 and 3 provides an initial understanding of the magnitude of the change that could be ushered in by the passage of IP 44. As shown in column five of Table 3, in total CJC estimates that convictions for PCS would be reduced by 3,679, or 90.7 percent. When broken down by race, the reduction in convictions overall ranges from 82.9 percent for Asian Oregonians to almost 94 percent for Black Oregonians.

To further evaluate the racial and ethnic impact of this sentencing change, CJC employed a disproportionality metric known as the Raw Differential Representation, or RDR.⁵ Substantively, the RDR represents the reduction in convictions that would be required to reach parity with white individuals given population differences across different races/ethnicities. A positive RDR indicates a minority racial/ethnic minority is overrepresented in the system compared to white individuals, whereas a negative RDR indicates a racial/ethnic minority is underrepresented in the system compared to white individuals. The goal, when assessing the RDR, is for each racial/ethnic group to be as close to white individuals as possible, as this would indicate that the group is neither underrepresented nor overrepresented compared to the baseline (white) group.

⁵ <https://www.oregon.gov/cjc/CJC%20Document%20Library/2019PCSReport.pdf>

Figure 1 displays the RDRs for 2019 felony convictions and the estimated felony convictions under IP 44. For 2019 felony convictions, there would need to be 24 fewer convictions for Black individuals to reach parity with white individuals. Under the estimated impact of IP 44, the RDR drops to one. Asian individuals are underrepresented compared to white individuals in 2019 convictions and under the estimated impact of IP 44, though to a lesser extent under IP 44. 2019 felony convictions for Hispanic individuals show a negative RDR, indicating that 85 additional Hispanic individuals would need to be convicted to achieve parity with white individuals. Under the estimated impact of IP 44, Hispanic individuals would instead be overrepresented by five. The RDR for Native Americans is the same under 2019 convictions and under the estimated impact of IP 44. The RDR analysis indicates that the estimated impact of IP 44 would be a decrease in overrepresentation of Black individuals in felony convictions. In general, Figure 1 shows that RDRs are closer to zero with the impact of IP 44, indicating a decrease in disparity.

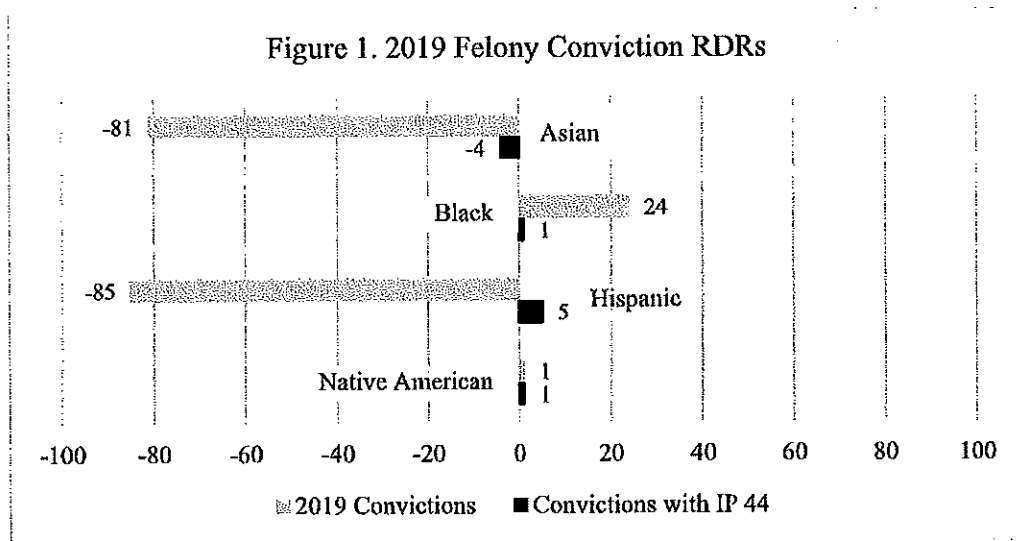
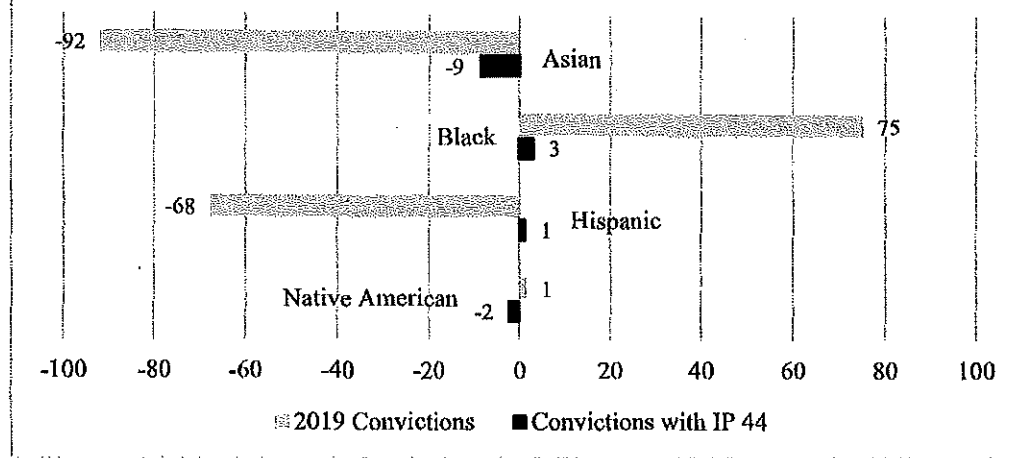


Figure 2 displays the RDRs for 2019 misdemeanor convictions and the estimated misdemeanor convictions under IP 44. For 2019 misdemeanor convictions, there would need to be 75 fewer convictions for Black individuals to reach parity with white individuals. Under the estimated impact of IP 44, that RDR drops to three. The RDR for 2019 misdemeanor convictions indicates that Asian and Hispanic individuals are both underrepresented in convictions compared to white individuals, and that remains true under IP 44 for Asian individuals. One fewer Hispanic individual would need to be convicted of a misdemeanor under IP 44 in order to reach parity with white individuals. Native American individuals were moderately overrepresented in 2019 convictions (by one), and under the estimated impact of IP 44 would be moderately underrepresented compared to whites (by two). The RDR analysis indicates that IP 44 would decrease overrepresentation of Black and Native American individuals in misdemeanor convictions compared to white individuals.

Figure 2. 2019 Misdemeanor Conviction RDRs



In conclusion, the RDRs for felony and misdemeanor convictions are closer to zero with the impact of IP 44. For Black individuals, the RDR drops to one for misdemeanor convictions and three for felony convictions. For Hispanic individuals, the RDR changes from an underrepresentation in convictions, to a value of one for misdemeanor convictions and five for felony convictions. The RDR for Native Americans is unchanged for felony convictions at one, and drops to negative two for misdemeanor convictions. As the RDRs trend to zero, this indicates a decrease in disparity for individuals convicted of misdemeanor and felony PCS. In addition, approximately 1,800 fewer Oregonians per year are estimated to be convicted of felony PCS and nearly 1,900 fewer convicted of misdemeanor PCS. Prior research suggests this drop in convictions will result in fewer collateral consequences stemming from criminal justice system involvement (Ewald and Uggen, 2012)⁶.

⁶ Ewald, A., and Uggen, C. 2012. "The Collateral Effects of Imprisonment on Prisoners, Their Families, and Communities." In J. Petersilia & K. Reitz (Eds.), *The Oxford Handbook on Sentencing and Corrections* (pp. 83-103). New York, NY: Oxford University Press.

APPENDIX C

**Staff memo summarizing articles assessing the impact
of impact statements and source articles**

MEMORANDUM

Date: October 13, 2021

To: Subcommittee to Implement a Racial Impact Statement Process Pilot

From: Danielle Fox, subcommittee staff

RE: Summary of analyses of the impact of racial impact statements (Iowa)

At the subcommittee's first meeting on October 6, 2021, members requested information on the "impact of impact statements." The state of Iowa has been producing such statements for the longest period of time and has published a significant number. Thus, I was able to find information assessing racial impact statements which are attached to criminal justice-related legislation in that state.

Following is a summary of 3 separate analyses which vary in detail and focus.

The first is a simple breakdown of legislation for which a statement indicated that the proposed law would either have disproportionate negative impact on minorities, or those that cited a positive or neutral impact. This was completed by the Associated Press and published in the Des Moines Register.

The second is a primarily quantitative review of Iowa legislation which focused on statements specifically indicating an impact on incarceration of minorities. Although I do note that the report by Simpson College was initiated in collaboration with a former Iowa legislator who sponsored the legislation requiring minority impact statements. The author developed and implemented a sort of rating system to classify the overall impact of impact of statements by year.

Finally, this summary includes quantitative excerpts from a case-study which also includes analysis that could be viewed as qualitative, or even subjective. For the purposes of this memo, I only cited the quantitative aspects of this report, primarily because it included data on impact statements for the longest span of time.

Copies of the source documents will be emailed separately and soon be posted on the subcommittee's study webpage.

Associated Press Analysis as reported in Des Moines Register (January 2015)

The AP reviewed **61 bills** with impact statements from the enactment of House File 2393 in 2009 through 2014).

- 26 statements indicated that the proposed legislation would have a disproportionate (negative) effect on minorities
 - Of those 26 bills, 6 were passed by both chambers and became law
- 35 statements indicated that the proposed legislation had no impact or a positive impact
 - Of those 35 bills, 14 were passed by both chambers and became law

Simpson College, Urban Studies Institute

(The Urban Studies Institute conducted this analysis in collaboration with former Iowa representative Wayne Ford who sponsored House File 2393 because they determined that “an explorative, analytical research study should be conducted to assess effectiveness” of the law.)

The principal author, Clarence Key Jr., examined **52 bills** for which there were statements (from 2009 – 2013) to look specifically at the impact on the Iowa’s “disproportionate rate of incarceration of minorities” in the state’s prison systems (26%) using measures developed for the purpose of the analysis. Overall, the analysis found that the statements had a neutral effect on the disproportionate rate of incarceration of minorities but that the statements may have an encouraging effect of stabilizing the rate could be influential in its reduction within the next 10 years.

The analysis used the following measures to determine whether the effect of the statements in a fiscal year were:

Positive – meaning, the statement prevented the passage of criminal penalty bills which were determined (by statements) to have a disproportionate impact on minorities;

Negative – meaning, the statement was not successful in preventing the passage of criminal penalty bills which were determined (by statements) to have a disproportionate impact on minorities;

Neutral – meaning, neither of the above.

<u>Fiscal year</u>	<u>Impact of statements</u>	<u>Legislation/statement stats</u>
2009	Neutral	10 bills 2 passed All bills were determined to be neutral
2010	Neutral	16 bills 6 passed/4 positive, 2 neutral 10 unpassed/8 neutral, 1 positive, 1 negative

2011	Negative	7 bills 4 passed/4 negative 3 unpassed/2 neutral, 1 negative
2012	Neutral	10 bills 2 passed/1 positive, 1 negative 8 unpassed/1 positive, 1 negative, 6 neutral
2013	Positive	9 bills 2 passed/1 neutral, one negative 7 unpassed/6 negative, 1 neutral

Author acknowledges that other factors contribute to the passage (or failure) of legislation and indicated that his analysis was affected by the lack of data on individual minority populations. In his paper, minorities include, but are not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons and women.

National Juvenile Justice Network (2020)

The Promise of Racial Impact Statements – Findings from a case study of minority impact statements in Iowa.

This report represents research conducted by the Juvenile Justice Network in collaboration with the Community Empowerment Law Project (CELP) at the Iowa College of Law. Compared to the other 2 items cited in this summary, this review is a more qualitative (and could be viewed as subjective) assessment of minority impact statements in which they asked questions about how they were completed and how they informed legislative decision-making and public opinion. What they found was based on their assertion of the purpose and intended outcomes of a racial impact statement. However, the analysis did include some basic statistics about legislation subject to Iowa's impact statement requirement from 2009 – 2019, encompassing more years than the other analyses in this summary.

The research examined 176 bills which met the criteria for having a minority impact statement. The statements, when attached by Legislative Services Agency – Fiscal Services Division, use the following categories to provide a general statement on impact (in addition to more detailed data).

Negative – disproportionate impact on minorities and could increase the number of minorities in jails or result in longer sentences for minorities.

Positive – will reduce the number of minorities in prison and/or result in shorter sentences for minorities

Minimal – minimal impact

No effect – no impact

Unknown – the LSA states that the minority impact of the bill “could not be determined

No statement attached – No statement was attached (even though subject of bill qualified it for a statement

Of the 176 bills:

<u>Impact</u>	<u>Number</u>	<u>Bills passed/rate</u>
Negative	41 bills	4 bills/ 22%
Positive	11 bills	4 bills/ 36%
Minimal	18 bills	6 bills/ 33%
No effect	23 bills	6 bills/ 26%
Unknown	52 bills	16 bills/ 31%
None attached	19 bills	3 bills/ 16%

Racial-impact law has modest effect in Iowa

Ryan J. Foley

Associated Press

After a 2007 report showed that Iowa had the nation's highest disparity for sending blacks to prison, state lawmakers took a novel step: They passed a law requiring analysts to draft "racial-impact statements" on any proposals to create new crimes or tougher penalties.

The governor at the time said the statements would be "an essential tool" to understand how minority communities might be affected before any votes were cast.

A review by the Associated Press shows that the first-in-the-nation law appears to be having a modest effect, helping to defeat some legislation that could have exacerbated disparities and providing a smoother path to passage for measures deemed neutral or beneficial to minorities.

Since Iowa acted, similar proposals have been adopted in Connecticut and Oregon. And more are likely to surface this year in several states.

Supporters say the idea can improve public trust at a time when many Americans question the fairness of the justice system and prevent policies that have unintended racial consequences. Critics are concerned that it unfairly injects race into policymaking and potentially weakens public safety. And a researcher who helps draft the statements said the analysis can involve some guesswork.

But there has been little analysis of how the laws actually work once passed. Iowa's experience provides the richest data available.

A review of 61 Iowa impact statements issued since 2009 showed that only six out of 26 bills seen as having a disproportionate effect on minorities passed both chambers and became law. Meanwhile, bills that were rated as having no effect or a positive effect on minority incarceration rates were nearly twice as likely to pass. Fourteen out of 35 such proposals became law.

The precise effect of the statements is impossible to gauge because many factors, including cost and lobbying pressure, contribute to whether a bill

becomes law. But legislators say any warning that a law could send more minorities to prison or for longer sentences affects their debates.

"It's made a difference already here in Iowa," said former Rep. Wayne Ford, a Des Moines Democrat who wrote the law and is advising lawmakers across the country on similar legislation. "There is no doubt in my mind that what we started years ago has begun a movement, with Ferguson and all the public safety issues that we've got now."

An example arose last year when lawmakers considered a bill to extend the crime of interference with official acts to anyone who resists jail guards. At first, it seemed like an uncontroversial proposal to close a legal loophole. Police, correctional officers and municipalities lined up in support. But the plan died in a committee after analysts warned that 35 percent of those who committed the new crime would probably be minorities.

In a state that is 88 percent white, the heightened focus on race irritates some critics.

"What we have done is take the blindfold off of lady justice," said Republican Rep. Clel Baudler, a retired state trooper who leads the public safety committee. "A crime is a crime is a crime."

The statements are drafted by the Legislative Services Agency using data on the prison population, arrests, convictions and sentences broken down by race. The agency has found disproportionate racial effects in proposals to increase penalties for child kidnappers, pimps who bring minors into prostitution and suspects who elude police officers, among others.

Senior legislative analyst Beth Lenstra acknowledged that analysts are sometimes "kind of guessing" as to how a new crime would affect minorities using data from similar existing offenses. But she said the studies lead to a more informed debate.

Marc Mauer, director of the Sentencing Project, a nonprofit that pushes for criminal justice system changes, called the AP's findings "intriguing."

"We need to be a little cautious about interpreting that, but nonetheless, it's a fairly substantial difference right off the bat," said Mauer, whose 2007 report found Iowa blacks were 13 times more likely than whites to be incarcerated.

Mauer promoted racial-impact statements in a 2007 law journal article and worked with Ford to pass Iowa's law. His group hosted a two-day strategy session in August with supporters seeking to require racial-impact statements in several states, including Wisconsin and Arkansas.

Mauer said the measures “aren’t going to change the world,” noting that they do not affect laws already on the books, but they promote fairness.

The AP’s findings are in line with a 2013 study by researchers at Simpson College in Indianola, who concluded that Iowa’s law has had a neutral effect on the prison population but may have a greater effect in coming years. With 2,130 blacks behind bars this month, they still make up 26 percent of the prison population and just 3 percent of Iowa residents.

Rep. Chip Baltimore, an Iowa Republican who heads the Judiciary Committee, said the statements were of little value because they do not consider the root causes of the racial disparity. But he said they offered political cover to lawmakers who oppose legislation for other reasons.

“I think at times it becomes a political tool,” he said. “There are some legislators that, if it has any minority impact, they won’t vote for it.”

SIMPSON COLLEGE URBAN STUDIES INSTITUTE
PROJECT:
THE IOWA 2008 MINORITY IMPACT STATEMENT LEGISLATION
FISCAL YEARS 2009-2013



Principal Author:
Clarence Key Jr. Adjunct Professor

Co-Authors:
Joella Hanes, Mikaella Holstad, Jose Perez,
Jessica Prowant, Carly Rice, Shawn Schossow

Introduction

In 2008, the Iowa Minority Impact Legislation Bill (House File 2393) was introduced to and passed in the legislature with the intent of reducing Iowa's disproportionate incarceration rate of minorities, which includes but is not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons, and women, of which African Americans have the highest disproportionate rate of incarceration; about 26%.

House File 2393 (H.F. 2393) made every future legislative bill, in particular all proposed criminal legislation, contain an "estimated" prediction of how it could affect the minority prison population. It was enacted in July of 2009.

The Simpson College Urban Studies Institute (SUSI), in collaboration with former Iowa representative Wayne Ford, who proposed H.F. 2393, determined that an explorative, analytical research study should be conducted to assess the effectiveness of H.F. 2393, how it relates to any possible decrease in the minority prison population rate, and whether policymakers were cognizant of any positive, negative, or neutral effect their legislative decisions may have on the disproportionate incarceration rate of minorities.

A total of 52 legislative bills from fiscal years 2009-2013 were collected, reviewed, and analyzed in order to respond to the aforementioned questions for this project.

Such a project would not have been possible without the support of Simpson College. Specifically, Steven J. Griffith, Senior Vice President and Academic Dean, and Dr. Fred Jones with the Department of Sociology and Criminal Justice, who is the Director of the Master of Arts in Criminal Justice program and our Research Supervisor.

Recognition must be given to the following for their cooperation and contribution to this project: the Iowa Legislative Agency, Beth Lenstra, Dr. Paul Stageberg, the administration and staff of the Division of Criminal and Juvenile Justice, the Iowa Department of Human Rights, and the Director of research for the Iowa Department of Corrections, Lettie Prell.

I would also like to recognize the six students who have worked very diligently as we pursued this project: Joella Hanes, Mikaella Holstad, Jose Perez, Jessica Prowant, Carly Rice, and Shawn Schossow.

Last but not least, we thank former Iowa representative Wayne Ford, the author of H.F. 2393, who has contributed greatly to our research.

Table of Contents

I.	Copy of House File 2393.....	5-6
II.	Executive Summary of Fiscal Years 2009-2013.....	7-9
III.	Definitions of Positive, Negative, and Neutral Effect and Minorities.....	10-11
IV.	Research and Analysis of Proposed Legislative Criminal Penalty for Fiscal Year 2009.....	12
V.	Research and Analysis of Proposed Legislative Criminal Penalty for Fiscal Year 2010.....	13
VI.	Research and Analysis of Proposed Legislative Criminal Penalty for Fiscal Year 2011.....	14
VII.	Research and Analysis of Proposed Legislative Criminal Penalty for Fiscal Year 2012.....	15
VIII.	Research and Analysis of Proposed Legislative Criminal Penalty for Fiscal Year 2013.....	16
IX.	Assessment.....	17
X.	Recommendations.....	18
XI.	Appendices.....	19-20

(A Copy of HF 2393)

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Executive Summary

House File 2393, or the Minority Impact Statement, was enacted in July of 2009. The objective of this legislation was to be an additional source of information for policy makers regarding criminal penalty legislation under consideration for passage and enactment that could reduce the disproportionate rate of incarceration of minorities in Iowa's prison system. Another objective was to attempt to reduce this rate.

House File 2393 has been in effect for the past five years. The 2014 legislative session is still in assembly and information relating to this research is not readily available.

The rate of incarceration of African Americans to the entire prison population has remained at 26% during the time period that this report reviews and analyzes (2009-2013).-

From these four years, we reviewed and analyzed fifty-two criminal penalty bills that included correctional, fiscal, and minority impact statements. Of these fifty-two bills, sixteen received passage and thirty six did not.

Various criminal justice system dynamics in reference to the disproportionate rate of incarceration of minority offenders in Iowa's prisons were discussed during the review and analysis process.

These dynamics included: review of the criminal penalty mandatory sentences, prosecutorial charging discretion, and varying judicial criminal sentencing practices. For example, two criminal offenders of differing races with similar criminal histories commit the same crime and receive different criminal sentences due to variation in race.

Discussions were also conducted with Dr. Paul Stageberg, Administrator for the Division of Criminal and Juvenile Justice Planning (CJJP), the Iowa Department of Human Rights, Lettie Prell, Director of Research for the Iowa Department of Corrections, and former Iowa State Representative Wayne Ford.

Upon completion of the review and analysis of the fifty-two legislative criminal penalty bills, the overall result, impact, and effectiveness of House File 2393 on the reduction of the disproportionate rate of minority offenders is considered to be *neutral*, in that it did not have a positive or negative impact on the reduction of the rate for the sixteen bills that received legislative passage in the legislative sessions of fiscal years 2009-2013.

Research and analysis appears to suggest that the 2008 implementation of House File 2393 has been and continues to be a useful tool for policy makers as they consider criminal penalty legislation that could possibly increase the disproportionate rate of incarceration of minority offenders in Iowa's prison population.

According to the CJJP Prison Population Forecast, it is projected that the disproportionate rate of incarceration of African Americans will more than likely remain at 26% over the next ten years (2013-2023).

Within the next ten years it is also favorable that House File 2393 may have an encouraging and constructive effect in not only stabilizing the disproportionate incarceration rate of minority offenders but also may be influential in the reduction of this rate.

Definitions

For the purposes of this report, we are using these definitions to describe whether or not H.F. 2393 was effective in its attempt to reduce the disproportionate rate of the incarceration of minorities in Iowa's prison system, in particular the African American incarceration rate of 26%.

These definitions include:

Positive Effect:

Where H.F. 2393 was successful in preventing legislative criminal penalty bills from passage that would increase the disproportionate rate of incarceration of minority offenders or successful in passing legislative criminal penalty bills that would decrease the disproportionate rate.

Negative Effect:

Where H.F. 2393 was not successful in preventing legislative criminal penalty bills from passage that would increase the disproportionate rate of incarceration of minority offenders.

Neutral Effect:

Where H.F. 2393 was neither successful nor unsuccessful in preventing passage of legislative criminal penalty bills that would affect the disproportionate rate of minority offenders.

Definitions (con't)

Minorities:

Minorities include but not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons, and women.

Research and Analysis of Legislation for Fiscal Year 2009

Fiscal Year 2009 was the first year where H.F. 2393 was made a part of any proposed criminal penalty legislation. For the most part, information/data was limited or unavailable for the impacts covered under H.F. 2393.

During the legislative session of 2009, ten bills were introduced. Of these ten bills, two received passage and eight did not. The two passed bills were found to have a neutral impact on the minority incarceration rate. Among the unpassed legislation, all eight bills were also found to have a neutral impact on this rate. For fiscal year 2009, we concluded that H.F. 2393 had an overall neutral effect on the proposed criminal penalty bills.

Research and Analysis of Legislation for Fiscal Year 2010

During the legislative session of 2010, sixteen criminal penalty bills were introduced. Of these sixteen bills, six received passage and ten did not. Among the six passed bills, four had an anticipated positive impact on the disproportionate rate of incarceration of minorities, and the other two had an anticipated neutral impact. Among the ten bills that did not pass, eight had an anticipated neutral impact, one had an anticipated positive impact and the last bill had an anticipated negative impact.

Collectively, the ten bills that did not receive passage would not have made an impact on the disproportionate rate of incarceration of minority offenders. Therefore, we concluded that H.F. 2393 had a neutral effect in fiscal year 2010.

Research and Analysis of Legislation for Fiscal Year 2011

During the legislative session of 2011, seven criminal penalty bills were introduced. Of these seven bills, four received passage and three did not. Among the four passed bills, three had an anticipated negative impact on the disproportionate rate of incarceration of minority offenders. House File 2393 had a negative effect for the passed bills.

Of the three bills that did not pass, two had anticipated neutral impacts and one had an anticipated negative impact. House File 2393 was effective in preventing this bill from passage.

For fiscal year 2011, we concluded that House File 2393 had a negative effect on criminal penalty legislation.

Research and Analysis of Legislation for Fiscal Year 2012

During the legislative session of 2012, ten criminal penalty bills were introduced. Of these ten bills, two bills received passage and eight did not. Among the two passed bills, one had an anticipated positive impact, and the other had an anticipated negative impact on the disproportionate rate of incarceration of minorities.

Of the eight bills that did not pass, one had an expected positive impact and one had an expected negative impact. The other seven bills that did not pass all had anticipated neutral impacts.

Overall, we concluded for fiscal year 2012 that House File 2393 had a neutral effect on criminal penalty legislation.

Research and Analysis of Legislation for Fiscal Year 2013

During the legislative session of 2013, nine criminal penalty bills were introduced. Of these nine bills, two received passage and seven did not. Among the two passed bills, one had an anticipated neutral impact, and the other had an anticipated negative impact on the disproportionate rate of incarceration of minorities.

Of the seven bills that did not pass, six were expected to have a negative impact, and one had an expected neutral impact.

For fiscal year 2013, we concluded that H.F. 2393 had a positive effect on criminal penalty legislation.

Assessment

House File 2393 is a valuable tool for preventing a further increase in the disproportionate rate of incarceration of minority offenders; however, it is still in its beginning stages. Our research and analysis has indicated a *neutral effect* on the disproportionate rate of incarceration of minority offenders. We have also concluded that House File 2393 cannot single-handedly lower the disproportionate rate of incarceration of minority offenders.

African Americans are most often sentenced to prison for drug-trafficking or robbery 1st or 2nd offenses. These crimes generally have a mandatory sentencing law that contributes to the stagnant disproportionate rate of incarceration of minority offenders.

Other contributing factors include public safety, previous criminal penalty laws, prosecutorial charging discretion, and varying judicial criminal sentencing practices. For example, two criminal offenders of differing races or genders with similar criminal histories commit the same crime and receive different criminal sentences due to variation in race or gender.

Please note, the analysis of our research was affected due to the lack of data on individual minority populations. We were missing data on the incoming offenders and the offenders being released from prison. This could have changed our results.

Recommendations

Current mandatory criminal sentences should be reviewed by policy makers. These sentences require offenders to serve an overly prolonged amount of confinement that not only contributes to the overcrowding problem of Iowa's prison population, but also to the disproportionate rate of incarceration of minority offenders. These mandatory sentences should either be drastically reduced or eliminated entirely.

The collection of additional information and data is vital regarding incarcerated minority men, women, and disabled offenders. Such as: how many offenders of color, women, and disabled are imprisoned on a monthly and annual basis. This would strengthen House File 2393 in conjunction with the correctional and fiscal impact statements.

The criminal sentencing practices within the Iowa judicial system need to be re-examined for equality and fairness to all ethnicities and genders.

There also needs to be a re-evaluation of criminal penalty law for equality and fairness that have a disproportionate effect on minority offenders, including various criminal drug offenses.

State policy makers should give consideration to changing the emphasis of Iowa's current drug policies from incarceration to drug-rehabilitation.

Appendix A

Figure 1: Impact of Bills by Year

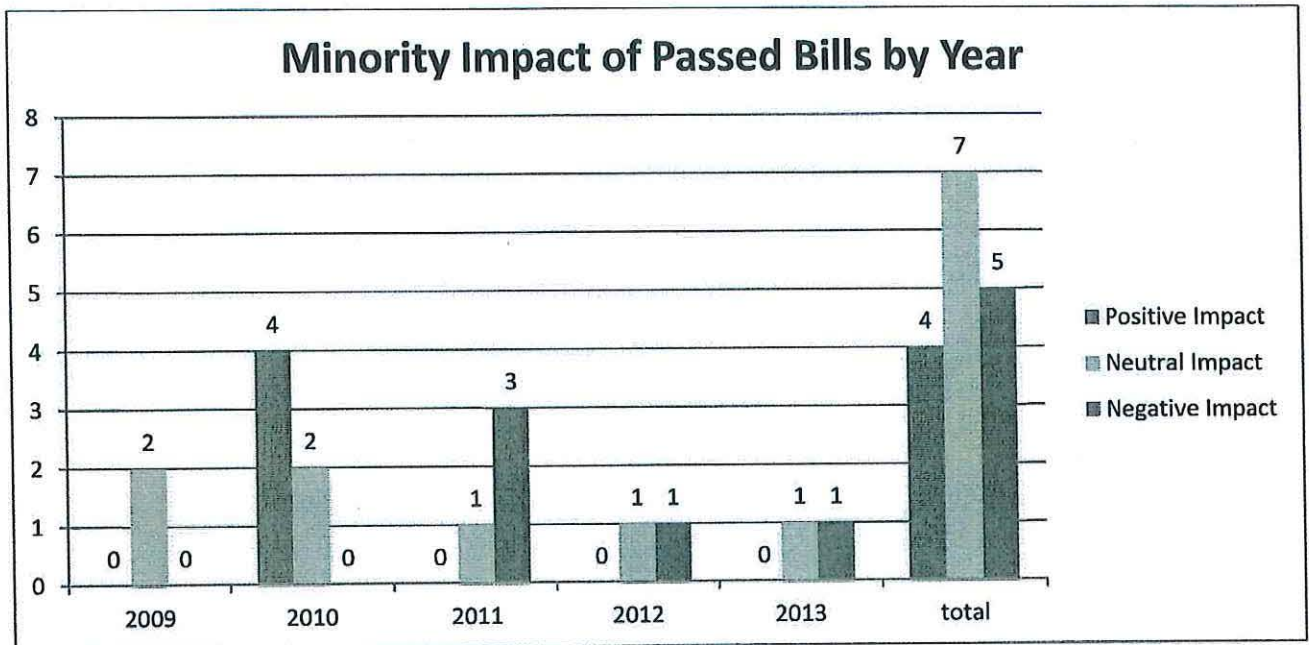
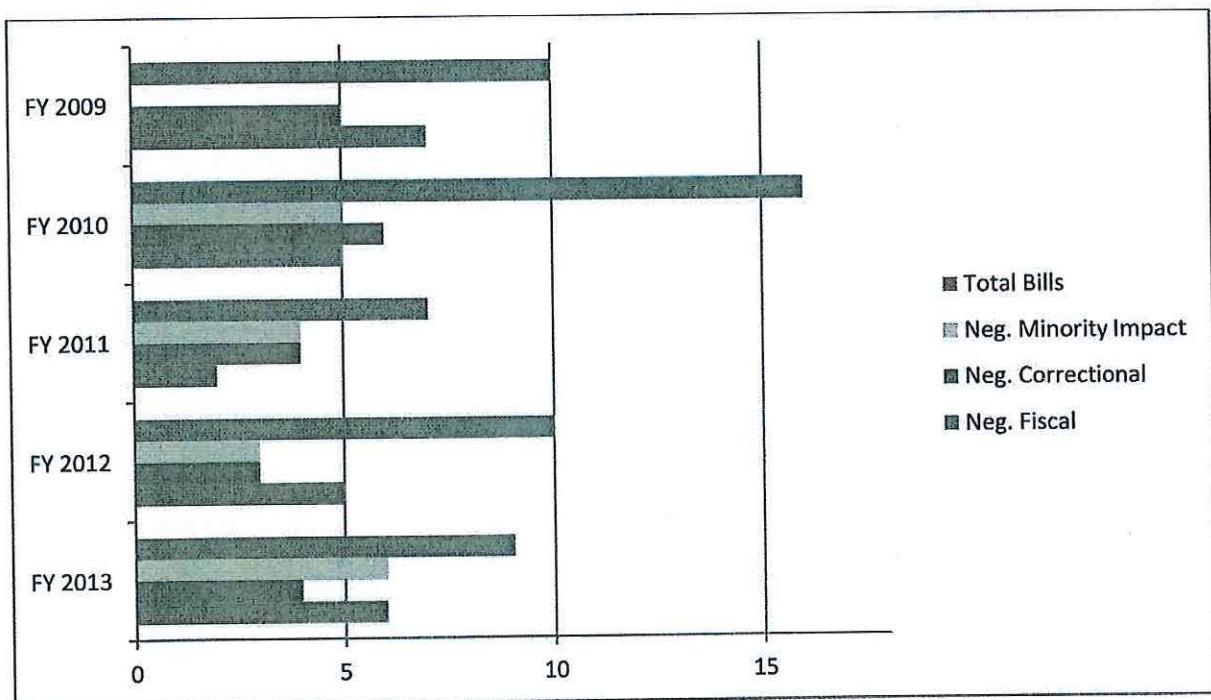


Figure 2: Bills Broken Down by Impact by Year



Appendix B

Figure 1: Effectiveness of HF 2393 (2009-2013)

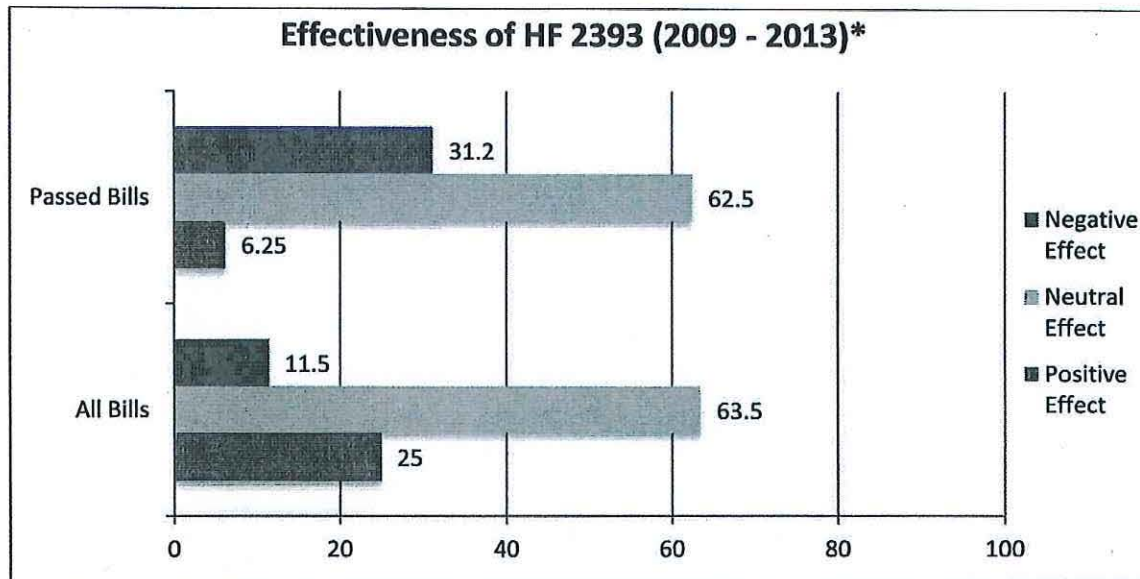
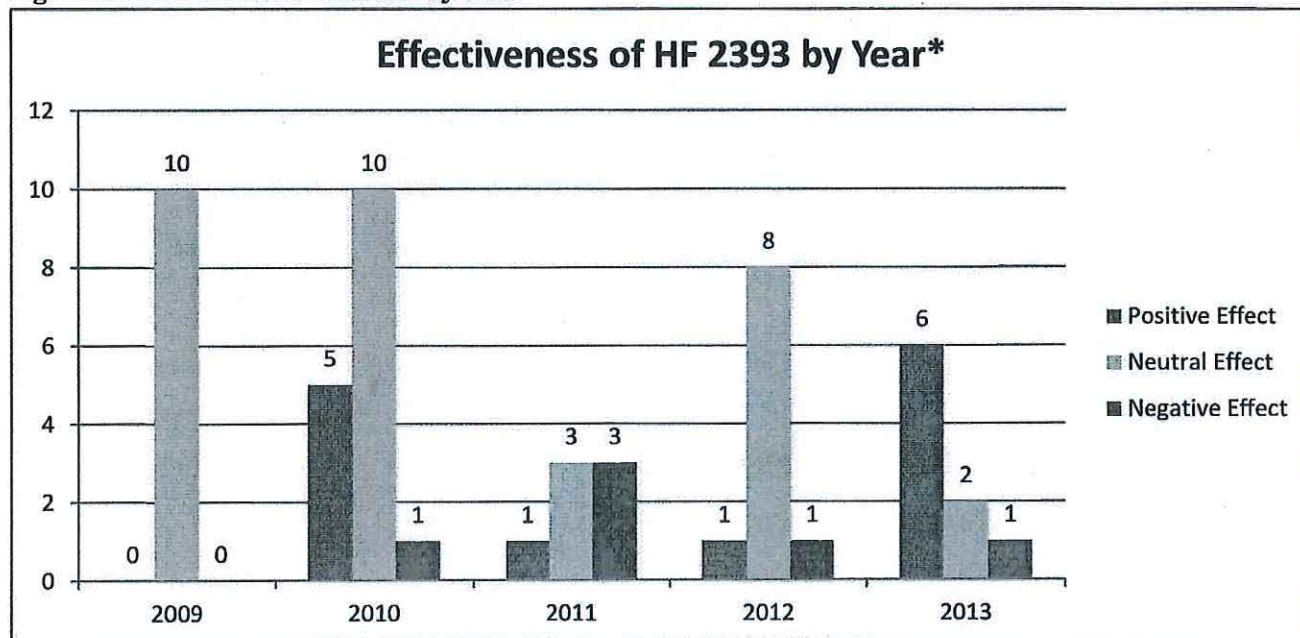


Figure 2: Effectiveness of HF2393 by Year



* of all bills (both passed and not passed)



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JUSTICE
NETWORK



THE PROMISE OF RACIAL IMPACT STATEMENTS:

FINDINGS FROM A CASE STUDY OF MINORITY
IMPACT STATEMENTS IN IOWA

NATIONAL
JUVENILE JUSTICE
NETWORK

Report

**THE PROMISE OF RACIAL IMPACT
STATEMENTS: FINDINGS FROM A CASE
STUDY OF MINORITY IMPACT
STATEMENTS IN IOWA**

2020

Acknowledgements

The research study of Iowa's Minority Impact Statements was conducted by the Community Empowerment Law Project at The University of Iowa College of Law Legal Clinic by original report authors Tristan Gahn, Bryan Porter, and Anthony Dopp.

Note that this report is deeply informed by the writings of Tristan Gahn, Bryan Porter, and Anthony Dopp, with edits from Nanyamka Shakura and Jeree Thomas of NJJN's Racial Justice Working Group, NJJN Staff, and NJJN 2020 Summer Interns.

About Community Empowerment Law Project (CELP), The University of Iowa College of Law Legal Clinic:

The CELP, through the representation of nonprofit organizations and other entities, works to strengthen communities, create economic opportunity, and advance social justice in the State of Iowa. We aim to help clients and communities amplify their voices, increase their impact, build strategic alliances, and to engage lawyers as collaborative partners and fellow problem-solvers. The CELP undertakes matters ranging from entity formation and strategic planning to coalition building and the design of advocacy plans.

About National Juvenile Justice Network (NJJN):

The National Juvenile Justice Network leads a membership community of 60 state-based organizations and numerous individuals across 42 states and D.C. We all seek to shrink our youth justice systems and transform the remainder into systems that treat youth and families with dignity and humanity. Our work is premised on the fundamental understanding that our youth justice systems are inextricably bound with the systemic and structural racism that defines our society; as such we seek to change policy and practice through an anti-racist lens by building power with those who are most negatively affected by our justice systems, including young people, their families and all people of color. We also recognize that other vulnerable populations - including LGBTQIA+, those with disabilities and mental illness, girls and immigrants - are disparately and negatively impacted by our justice systems, and thus we also seek to center their concerns in our policy change work. For more information, visit www.njjn.org.

Please note the terms minority impact statement and racial impact statement have been used interchangeably in this report. As noted in the background section, Iowa uses the term minority impact statements due to its efforts to address multiple populations impacted negatively by legislation.

October 2020 by the National Juvenile Justice Network.

Forward

Dear Reader,

We find ourselves in the midst of an important reckoning in our country.

The violent legacy of racial oppression has caught up to us, and a resistance movement led in large part by young people demanding the dismantling of white supremacy in the United States has emerged. Those of us dedicated to transforming our country's treatment of young people who interact with the law welcome this as a moment to get serious about the racial inequities that lead to youth of color being disproportionately profiled, over policed, more harshly punished and left with a lasting legacy of racial trauma.

Undoing centuries of institutionalized harm requires us to refocus the lens with which we view policy decisions and how they impact communities of color. The following report examines racial or minority impact statements, which have emerged as a potential legislative tool for our collective reimagining of the policy process.

But do they work?

What follows is a first step of answering that question. Through a case study of Iowa's implementation of minority impact statements, we present the history, context and lessons learned about the efficacy of these legislative tools. In subsequent brain trusts and convenings, we hope to delve deeper into the reasons why advocates may or may not choose to push for the use of racial impact statements in their states, and what that could mean for the future of youth justice more specifically.

Ultimately, our vision is clear: the stronghold of white supremacy in our legal systems must be eradicated. Together, we must create the most effective means to that end.

In Solidarity,

K. Ricky Watson, Jr.
Executive Director, National Juvenile Justice Network

Executive Summary

Overview of Racial Impact Statement Legislation

The most pernicious and destructive force distorting America's criminal legal system is racism and, as a result, the persistent racial disparities at each contact point from arrest to incarceration. Our nation's policing and legal systems are rooted in white supremacy with the express goal of suppressing communities of color. In America, Black people are a little over thirteen percent of the U.S. population, but thirty-three percent of the prison population.¹ The youth justice system faces a similar, but more acute trend. Black youth are fourteen percent of the population, but forty-two percent of the youth detained in youth detention centers and youth prisons.² Nationally, advocates, legislators, and system stakeholders continue to grapple with what tools could effectively address this disparity given its deep historical, cultural, and legislative roots.

The National Juvenile Justice Network (NJJN) is committed to racial justice and the dismantling of systems that entangle youth. In addition to providing members with anti-racist tools and resources to put an end to youth incarceration, NJJN also provides information to expose and organize against the overrepresentation of youth of color in both the youth and adult systems. NJJN formed the Racial Justice Working Group in 2016, which was tasked with researching tangible policy solutions that reduce disparities in the youth justice system. In 2019, the Racial Justice Working Group began exploring racial impact statements as a potential advocacy tool in ending racial disparities.

The first racial impact statement legislation in the country passed in Iowa. The legislation was actually a *minority impact* statement that not only analyzed the impact of proposed legislation by race, but also its impact on women and people with disabilities. In the fall of 2019, the Racial Justice Working Group partnered with the Community Empowerment Law Project of the University of Iowa College of Law (CELP) to learn about the effort to pass the minority impact legislation, the methodology of creating minority impact statements, how the effort to implement the statements has been sustained over the years, and whether Iowa's minority impact statement requirement led to reductions in racial disparities over the last decade.

Since the passage of Iowa's statute in 2008, Connecticut³, Oregon⁴, and most recently New Jersey⁵ have followed Iowa's example by passing a version of the minority impact statement that is more specifically focused on racial and ethnic disparities. Several states, including Oklahoma, New York, Illinois,

¹ "U.S. Census Bureau Quick Facts: United States," U.S. Census Bureau, accessed July 1, 2020, <https://www.census.gov/quickfacts/fact/table/US/PST045219>; Jennifer Bronson and E. Ann Carson, "Prisoners in 2017," *Bureau of Justice Statistics*, April 2019, <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

² C. Puzzanchera, A. Sladky, and W. Kang, "Easy Access to Juvenile Populations: 1990-2018," updated July 15, 2019; M. Sickmund, A. Sladky, and W. Kang, W, "Easy Access to Juvenile Court Statistics: 1985-2017," updated March 31, 2020.

³ Conn. Gen. Stat. § 2-24b (2018).

⁴ Or. Rev. Stat. § 137.683 (2019).

⁵ N.J. Rev. Stat. § 2C:48B-2 (2017).

Maryland, Kentucky, Vermont, Mississippi, and Minnesota have introduced minority impact statement legislation over the years.⁶

For this research collaboration, CELP researchers reviewed every minority impact statement published by the Iowa Fiscal Services Division between 2009 and 2019, asking critical questions about how they were completed and how they informed legislative decision making and public opinion. As a result, the findings from this research are broadly applicable to states considering the passage or implementation of legislation to create mechanisms to assess the racial impact of new or amended criminal laws. Iowa's law serves as a critical case study of both the opportunities and challenges associated with the passage and implementation of targeted anti-racist policies like minority impact statements.

Key Takeaways:

1. **To fully inform legislators and the electorate on the effect of legislation, it is imperative that minority/racial impact statements are available to all stakeholders as early in the legislative process as possible, and preferably before lobbyists, advocates, and constituents must express support for or opposition to a bill.**
2. **To actualize their promise, minority/racial impact statements should consistently provide a thorough and comprehensive analysis of the impact of justice system legislation using a standardized process and methodology. A generic and brief analysis is insufficient to guide legislative decision making.**
3. **Minority/Racial impact statements are meant to inform legislators of the effects of bills on communities of color or other marginalized communities so that they can take steps to avoid increasing disparities. In order to enhance their effectiveness, legislation should prohibit the passage of bills with a negative impact statement - one that indicates a bill will increase racial, ethnic, gender, or disability disparities.**

If fully implemented as intended, minority/racial impact statements can be a critical tool for addressing racial disparities in America's criminal and juvenile systems. Research conducted on Iowa's implementation illuminates the importance of holding agencies and legislators accountable for effective and full implementation to secure the desired effect. It also highlights the value of data to forecast the impact of legislation on communities of color while simultaneously illuminating that data alone is not enough. Racial impact statements are not a panacea but a tool for legislators, advocates, and agencies to ensure their decisions help and do not harm communities of color. Finally, this research also elevates a list of components that we hope will inform future legislation to realize the full potential of racial impact statements.

⁶ The Sentencing Project, "State Advocacy News: Expanding Racial Impact Statements," March 1, 2019, <https://www.sentencingproject.org/news/7002/>.

Iowa's Minority Impact Statement Legislation

In 2007, Marc Mauer and Ryan King released *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, which identified Iowa as the state with the highest ratio of Black-to-white incarceration in the nation—13.6 to 1.⁷ Despite the fact that according to Census data, Iowa's Black population hovered between two percent⁸ and four percent⁹ from 2000 to 2019.

The report's findings were deeply troubling to Representative Wayne Ford, only the tenth Black legislator in the state's history and the longest-serving Black legislator in the state.¹⁰ Spurred to action by the devastating data, Representative Ford worked with Marc Mauer to draft legislation with the purpose of requiring legislators and the Governor to confront disparities in the criminal legal system. Representative Ford made the strategic decision to include an analysis of gender and disability disparities in addition to race in the bill in order to address these disparities as well as to garner a larger and more diverse base of supporters.

Bill HF 2393, known as the "Minority Impact Statement" bill, applied to any bill, joint resolution, or amendment that would create a new public offense, change an existing offense, or change a penalty related to sentencing, probation, or parole. The bill required that prior to a debate on an Iowa legislative chamber floor there would be a statement issued assessing the legislation's impact on people of color, women, and people with disabilities.¹¹

The "Minority Impact Statement" bill passed the House unanimously and passed the Senate with only two opposing votes.¹² With the passage of the bill, Iowa became the first state in the country to require the consideration of race, gender, and disability when considering criminal justice legislation.

CELP researchers undertook a study of the effect of the minority impact statement statute on legislators, advocates, and the public, and the effectiveness of the minority impact statement statute in reducing disparities in Iowa, with a focus on racial disparities. With respect to minority impact statements' effect on legislators, researchers calculated a bill's passage rate as it related to the determination of the bill's impact on minorities in the statement (Chart 2 below). To better understand if the public and lobbying/advocacy organizations were influenced by minority impact statements, the researchers

⁷ In 2005, the state of Iowa had 4,200 Black people incarcerated per 100,000. In contrast, only 309 white people were incarcerated per 100,000. Marc Mauer & Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, The Sentencing Project (Washington, DC: July 1, 2007): 10, available at <https://www.sentencingproject.org/publications/uneven-justice-state-rates-of-incarceration-by-race-and-et>.

⁸ Population of Iowa: Census 2010 and 2000 Interactive Map, Demographics, Statistics, Quick Facts, Census Viewer <http://censusviewer.com/state/IA>.

⁹ Census Quick Facts, Iowa; United States <https://www.census.gov/quickfacts/fact/table/IA,US/PST120218#PST120218>.

¹⁰ Iowa House Democrats, "Member Profile: Wayne Ford" (February 27, 2009), <https://iowahouse.org/member-profile-wayne-ford/>.

¹¹ HF 2393, 2008 Leg. Sess. (Iowa 2008), <https://www.legis.iowa.gov/legislation/BillBook?ga=82&ba=HF%202393>.

¹² Bill History for HF 2393, <https://www.legis.iowa.gov/legislation/billTracking/billHistory?billName=HF%202393&ga=82>.

compared the statements and positions of lobbying and advocacy organizations on bills to the determination of the bill's impact on minorities in the statement. Lastly, in an effort to better understand whether minority impact statements had an effect on disparities in incarceration, researchers compared predicted and actual sentencing data for specific statutes, including Iowa's Robbery III statute. Their research guides the recommended steps towards effective implementation of racial impact statements outlined in the next section.

How Iowa's Minority Impact Statements Function

Iowa's Minority Impact Statement statute took effect on July 1, 2008.¹³ The legislation charged the Fiscal Services Division of the Legislative Services Agency (LSA), a non-partisan government agency that develops fiscal impact statements, with developing minority impact statements.¹⁴

To develop minority impact statements, the LSA works in cooperation with the Division of Criminal and Juvenile Justice Planning, the main entity that collects juvenile and criminal justice related data,¹⁵ and incorporates the findings as part of a bill's fiscal note.¹⁶ The LSA publishes approximately 170 fiscal notes per year¹⁷ and publishes an annual memo entitled "Minority Impact Statement," which restates general census data, at the beginning of each fiscal year.¹⁸

The minority impact statements, according to the statute, are required to be attached to any new piece of legislation that either implements or alters parole, sentencing, or criminal law prior to a bill's floor debate.¹⁹ As a practical matter, given time and staff restraints, statements are drafted only after a bill moves out of committee and before floor debate.²⁰ However, Iowa legislators may request the statement at any point during the legislative process.²¹ Generally, lobbyists and the general public do not have access to the statement until the bill has passed either the House or Senate Chamber -- after they have had to express support or opposition to a given bill.²²

¹³ The Act took effect July 1, 2008, but did not apply to grants for which applications were due until January 1, 2009. HF 2393, <https://www.legis.iowa.gov/legislation/BillBook?ga=82&ba=HF%202393>.

¹⁴ The Iowa Legislature, "Fiscal Services," <https://www.legis.iowa.gov/agencies/nonpartisan/lsa/fiscalServices>.

¹⁵ Iowa Code Ann. § 2.56 (2019).

¹⁶ Legislative Services Agency Staff. Interviewed by Authors.

¹⁷ Legislative Services Agency Staff. Interviewed by Authors.

¹⁸ Holly Lyons, Minority Impact Statement Memo, July 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>

¹⁹ Iowa Code Ann. § 2.56 (2019).

²⁰ Legislative Services Agency Staff. Interviewed by Authors.

²¹ Mary Lynn Wolfe. Interviewed by Authors. Clinton, Iowa. November 24, 2019.

²² Daniel Zeno. Interviewed by Authors. Des Moines, Iowa. October 16, 2019.

CELP'S Study of Minority Impact Statements

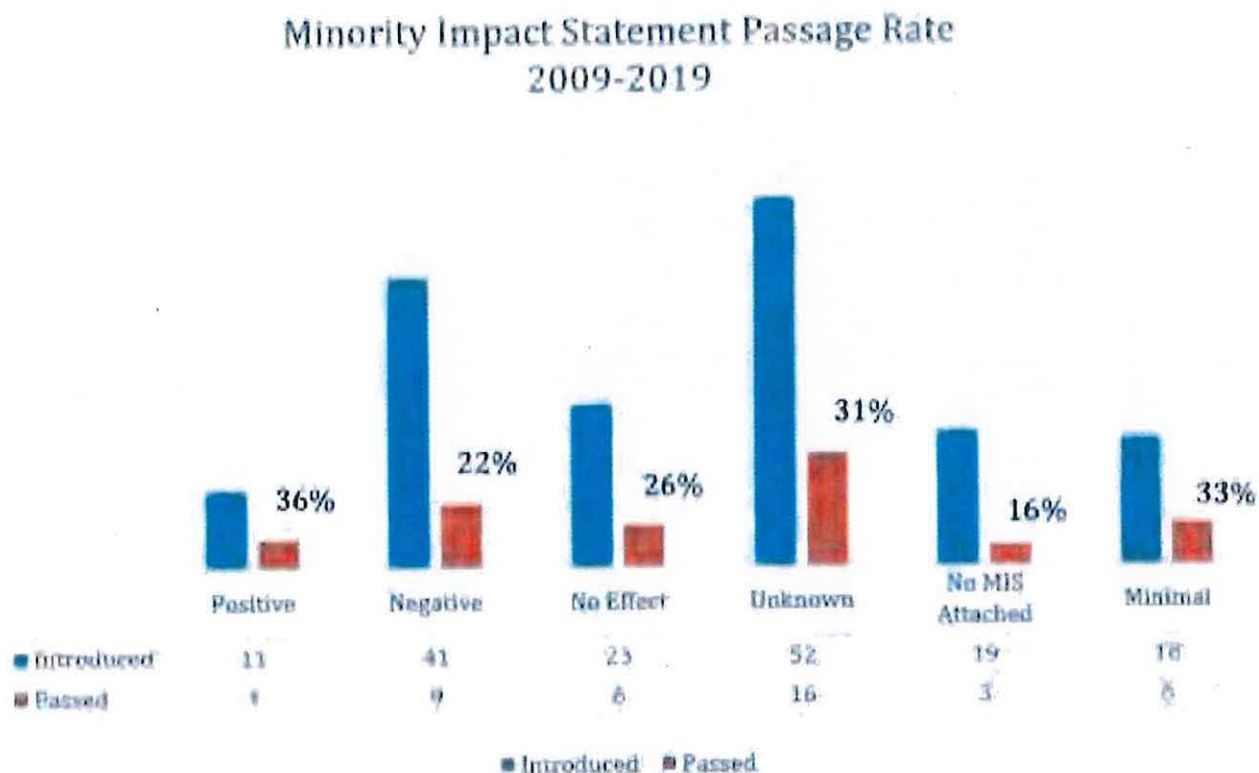
To understand the effect of minority impact statements, CELP researchers reviewed every minority impact statement published by the Fiscal Services Division between 2009 and 2019, identifying 176 criminal justice related bills that reached one of the chamber floors. Once identified, CELP reviewed the written justification for each impact and categorized the bills as positive, negative, no effect, unknown effect, minimal effect, or no minority impact statement attached. (See Chart 1 below for full breakdown.) Also see the appendix for real examples of each minority impact statement reviewed.

Chart 1. Bills Disaggregated by Impact Category

Category	Description of Category	Number of Relevant Bills Introduced from 2009-2019
Negative	The LSA deemed the bill would have a disproportionate impact on minorities and could increase the number of minorities in jails and prisons or result in longer sentences for minorities.	41
Unknown Effect	The LSA stated that the minority impact of a bill "could not be determined."	52
No Minority Impact Statement Attached	The LSA did not attach any statement to a criminal justice bill, even though the subject qualified for a minority impact statement.	19
Minimal	The LSA determined that the bill in question would have a "minimal" impact.	18
No Effect	The LSA determined that the bill in question would have no minority impact.	23
Positive	The LSA concluded that the bill would reduce the number of minorities in prison and/or result in shorter sentences for minorities.	11

In addition to categorizing legislation by its effect, researchers analyzed minority impact statements to assess their influence on legislators and the public. First, to determine minority impact statements' effect on legislators, researchers calculated a bill's passage rate as it related to the minority impact statement's impact category. (Chart 2 below). Secondly, to understand minority impact statements' influence on the public, researchers reviewed declarations made by lobbying and advocacy organizations. Lastly, CELP researchers analyzed sentencing data and changes to Iowa's robbery III statute to understand minority impact statements' effect on incarceration disparities. Their research guides the recommended steps towards effective implementation of racial impact statements outlined in the next section.

Chart 2. Minority Impact Statement Passage Rate, 2009-2019



Key Takeaways from Iowa on Minority Impact Statements

1. To fully inform legislators and the electorate on the effect of legislation, minority/racial impact statements should be available to all stakeholders as early in the legislative process as possible, and preferably before lobbyists, advocates, and constituents must express support for or opposition to a bill.

In Iowa, after a bill is drafted and introduced, the bill is referred to a standing committee where the bill will be assigned to a subcommittee responsible for reviewing the legislation and reporting its recommendations. During subcommittee meetings, public hearings are held where lobbyists, organizations, and members of the public can advocate for or against a bill. However, under Iowa's current legislative process, a minority impact statement is only assigned prior to a floor vote, well after bills are referred to committees.²³ As a result, the public's opinion on legislation during these critical public hearings are not informed by minority impact statements.

Since minority impact statements are made public later in the legislative process there is limited information on how they affect the public's response to these statements. However, the information available indicates that some organizations will not change their opinion or response to a bill based on the bill having a negative minority impact. For example, the Iowa Peace Officers Association, a coalition of retired and employed peace officers across the state, meets annually with other public safety associations to discuss legislation.²⁴ In the Iowa Peace Officers Association's resolutions of 2017, 2018, and 2019, the organization stated that it "opposes the legalization of marijuana and its derivatives for any purpose."²⁵ In 2017, the Iowa legislature passed a bill reforming the penalty for marijuana possession and this bill had a positive minority impact statement, indicating the legislation would benefit communities of color.²⁶ Nonetheless, the Iowa Peace Officers Association declared against the bill and passed resolutions against it every year after, despite its positive effects on improving disproportionate incarceration rates.²⁷

If minority impact statements were available earlier in the legislative process, the public could utilize the statement to hold legislators accountable, organize communities to promote or prevent the passage of legislation, and advocate for or against the legislation based on its impact. As the law is currently implemented, those advocacy strategies are unavailable to advocates, activists, and concerned citizens. By making minority impact statements available sooner in the legislative process, the public would have a meaningful opportunity to discuss and question their legislators about their position on the bill.

²³ Legislative Services Agency Staff. Interviewed by Authors.

²⁴ See Iowa Peace Officers Association, "President's Message" (2019), <http://www.iowapeaceofficers.org/home.html>.

²⁵ Iowa Peace Officers Association, "IPOA 2019 Resolutions," <http://www.iowapeaceofficers.org/2019legislative-reports.html>.

²⁶ S.F. 432 Minority Impact Statement, <https://www.legis.iowa.gov/docs/publications/FN/855463.pdf>.

²⁷ See S.F. 432, 87 Gen. Assemb. (2017), "Marijuana Possession Penalty," Lobbyist Declarations, <https://www.legis.iowa.gov/lobbyist/reports/declarations?ga=87&ba=SF432>.

2. To actualize their promise, minority/racial impact statements should consistently provide a thorough and comprehensive analysis of the impact of justice system legislation using a standardized process and methodology. A generic and brief analysis is insufficient to guide legislative decision making.

As written, Iowa's Minority Impact Statement statute mandates that the LSA analyze the impact a bill will have on all minorities. The LSA does not have a standardized method for analyzing or categorizing the impact of legislation. The bill categorizations that LSA used included negative effect, no effect, positive effect, minimal effect, and unknown effect, but nowhere are these terms defined.²⁸ Additionally, from 2009 to 2019, the length of the analysis of Iowa's minority impact statements sharply decreased from two to three paragraphs to two to three sentences.²⁹ In order for these statements to be effective, they must be thorough and comprehensive, rather than simply conclusory statements.

CELP's analysis also found that the LSA almost exclusively analyzed a bill's impact on Black Iowans and does not include a bill's impact on women, people with disabilities, or other people of color.³⁰ Furthermore, in recent years, there has been a dramatic spike in the number of bills classified as having an "unknown impact" by the LSA (see Chart 3). Over the past ten years, there have been fifty-two bills with "unknown" impact on minority communities (see Chart 1). Thirty-one of the fifty-two unknown impact statements – more than sixty percent – have been published within the past two years (see Chart 1).

Every year, the LSA develops a census memo titled "Minority Impact Statement" that they provide to both chambers at the beginning of each legislative session.³¹ The LSA believes that in referencing the census memo in their analysis, and not actually showing their analysis in the fiscal note, they can make the statements shorter.³² In many of the minority impact statements with an "unknown" impact, the LSA directs legislators to review their annual census memo,³³ which restates statistics about Iowa's demographics in both its general population and prison population.³⁴ The memo is generic – it does not contain any bill-specific information and legislators are under no obligation to review the memo, which is provided to legislators once each year. The memo is not attached to a bill's minority impact statement but can be accessed by legislators online or upon request.

As a result of the increase in bills with "unknown" impacts and bills without any minority impact statement, legislators are making decisions about legislation even though they lack critical information on

²⁸ The CELP researchers also identified criminal justice legislation that merited a minority impact statement but did not have one attached.

²⁹ It is notable that the minority impact statements were the most detailed in 2009 when former Representative Wayne Ford was still serving in the legislature.

³⁰ Legislative Services Agency Staff. Interviewed by Authors.

³¹ Holly Lyons, Minority Impact Statement Memo, January 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>.

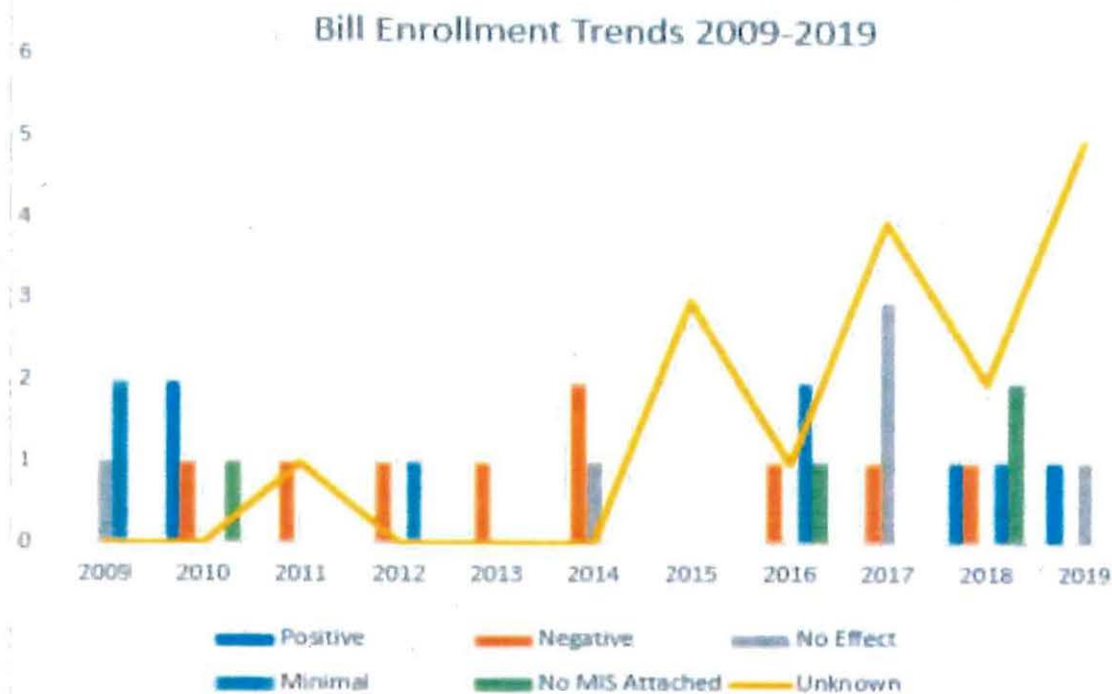
³² Legislative Services Agency Staff. Interviewed by Authors.

³³ E.g., Iowa Legislature, SF 275 Fiscal Note (April 22, 2019), <https://www.legis.iowa.gov/docs/publications/FN/1045027.pdf>.

³⁴ Holly Lyons, Minority Impact Statement Memo, January 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>.

a criminal bill's potential impact on minority communities, completely undermining the intent of the law. Consequently, we believe a standardized process of categorizing impacts should be established, as well as a standard methodology for calculating impact.

Chart 3. Bill Enrollment Trends 2009-2019



3. **Minority/Racial impact statements are meant to inform legislators of the effects of bills on communities of color or other marginalized communities so that they can take steps to avoid increasing disparities. In order to enhance their effectiveness, legislation should prohibit the passage of bills with a negative impact statement - one that indicates a bill will increase racial, ethnic, gender, or disability disparities.**

In isolation, minority/racial impact statements do not determine the enrollment of positive, equitably implemented legislation. To be effective, minority/racial impact statements should be utilized to prohibit bills with negative impacts that increase disparities. Simultaneously, these statements should be used to guide the passage of bills with positive impacts, ensuring that these bills are implemented equitably and with fidelity.

Minority impact statements are not a decisive factor for many Iowa legislators in part because there is insufficient information or analysis for them to be used effectively. According to CELP's research, bills have similar passage rates of between twenty-two and thirty-six percent regardless of the minority impact statement's impact category (see Chart 2), although the expectation is that bills with a negative minority impact statement will have a very low passage rate and bills with a positive minority impact statement will have a much higher passage rate.

Nonetheless, data on disparities in Iowa has shown a slight decrease from a Black-to-white ratio of incarceration of 13.6 to 1 in 2007³⁵ to 11 to 1 in 2016.³⁶ While the drop in disparities can't be directly attributed to the passage of minority impact statement legislation, it underscores minority impact statements as a tool to help educate decision makers about disparities.

It is also notable that even when a law has the potential to create a positive impact or to reduce harm for minority communities, the actual implementation of the law is just as important. For example, CELP conducted an analysis of a 2010 bill that created Robbery III as a class D felony, which is a non-forcible felony that is not subject to a mandatory minimum prison sentence.³⁷ Sentencing could be less stringent than a Class A, B or C felony, and, according to the minority impact statement, the bill could result in "a significant decrease in the confinement of minorities."³⁸

Unfortunately, the analysis of implementation of the robbery law suggests otherwise. Even after the creation of Robbery III as a class D felony, the conviction rate of Black Iowans for robbery continued to increase, yet the conviction rate of white Iowans decreased over the same time period (see Chart 4). Black Iowans continued to be convicted under the more punitive Class B and C felonies with no convictions under the Class D felony (see Chart 5).

For white Iowans, the addition of the Class D felony meant that more individuals were convicted for the aggravated misdemeanor charge instead of the more severe felonies (see Chart 6). For Black Iowans, the aggravated misdemeanor charge rarely resulted in a conviction, but the more severe felonies remained the most likely charges to result in convictions for Black Iowans on robbery.

³⁵ Marc Mauer & Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, The Sentencing Project (Washington, DC: July 1, 2007): 10, available at <https://www.sentencingproject.org/publications/uneven-justice-state-rates-of-incarceration-by-race-and-et>.

³⁶ Ashley Nellis, *The Color of Justice: Disparity in State Prisons*, The Sentencing Project (Washington, DC: June 14, 2016): 8, available at <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

³⁷ Current law provides for a class C felony offense of second-degree robbery, a forcible felony subject to 10 years in prison, with a requirement that 70.0% (7.0 years) be served in prison. Creating a non-forcible Class D felony of third-degree robbery provided that a person may receive a sentence or probation or prison. The average length of stay for a class C second degree robbery is 7.0 years in prison. The average length of stay for a Class D felony crime against a person is 20.9 months (1.75 years). SF 2250, 87 Gen. Assemb. (Ia. 2010) Robbery III. Available at <https://www.legis.iowa.gov/docs/publications/FN/964856.pdf>.

³⁸ S.F. 2250, 87 Gen. Assemb. (Ia. 2010) Robbery III. Available at <https://www.legis.iowa.gov/docs/publications/FN/964856.pdf>.

Chart 4. % of Robbery Convictions by Race Per Year

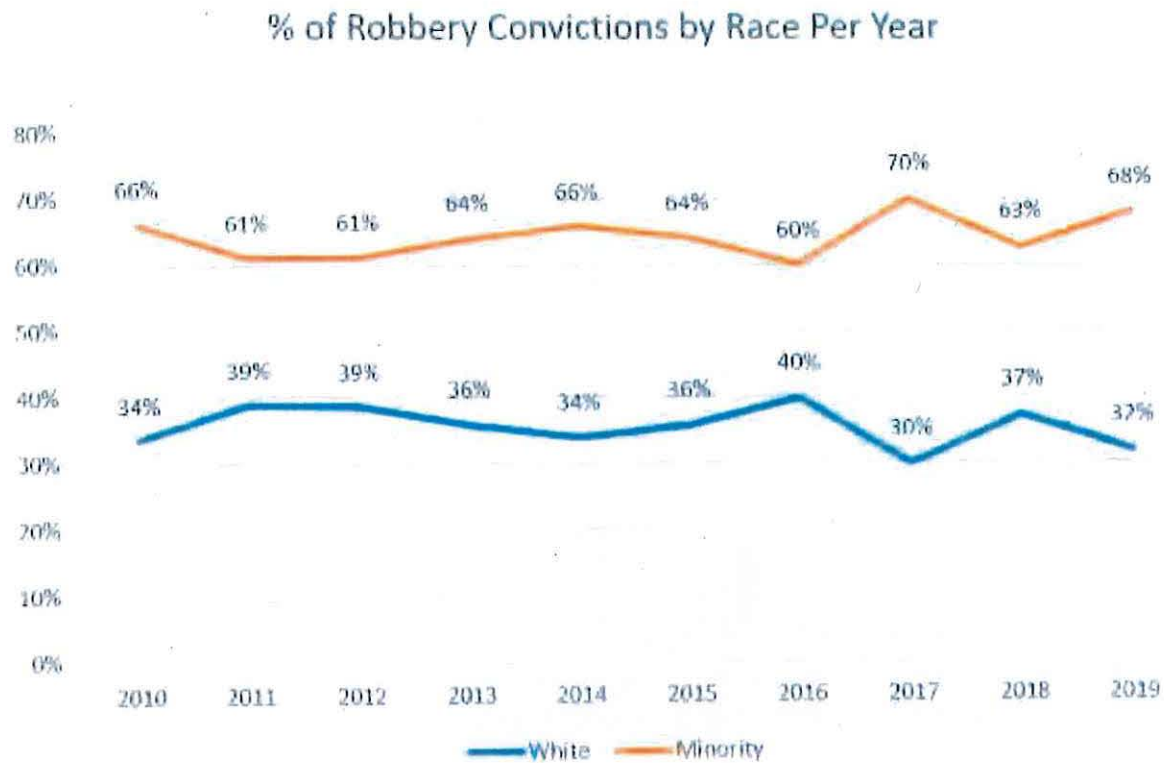


Chart 5. Black Robbery Convictions by Crime Subtype 2010-2019

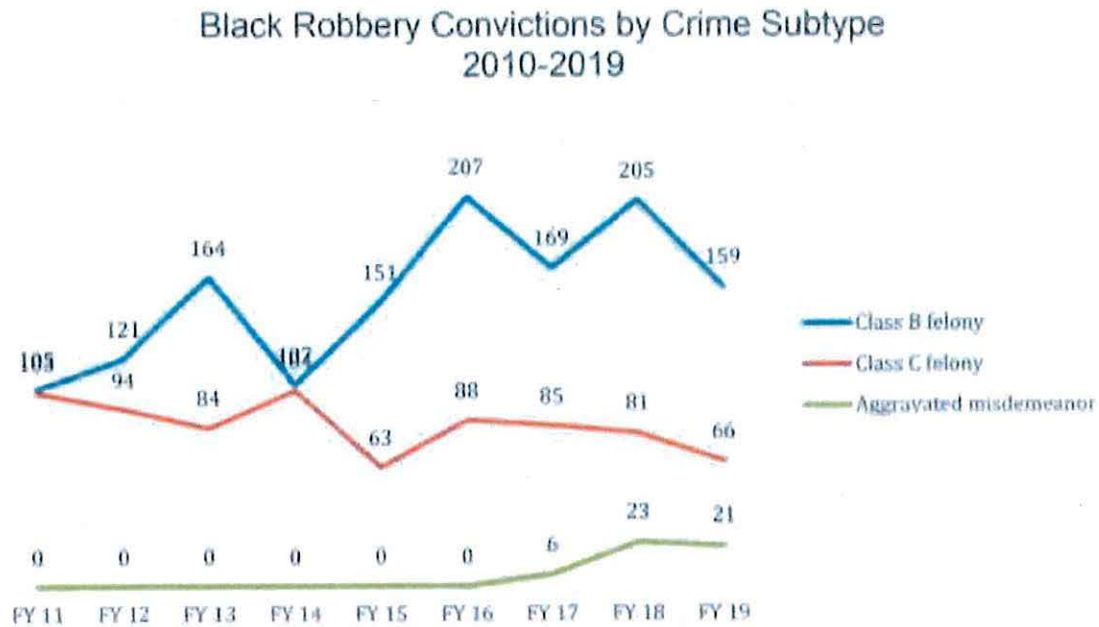
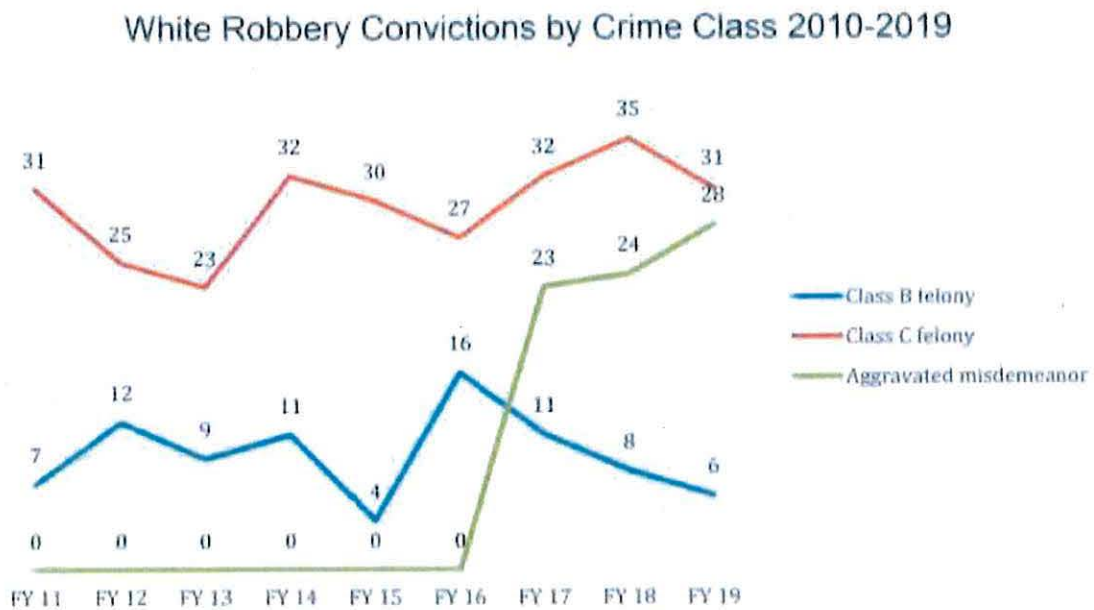


Chart 6. White Robbery Convictions by Crime Class 2010-2019



Because of the disconnect between the potential positive impact on minority communities predicted in the minority impact statement, and the reality of the bill in practice, there is a need for greater oversight of the implementation of criminal bills and some accountability mechanism by which the public, LSA, and legislators can better understand how minority impact statement predictions compare with reality. As Iowa remains the state with the third highest disparity in incarceration rates in the nation,³⁹ it is clear that the minority impact statement statute must be strengthened to maximize its impact.

Model Legislation Recommendations

The case study of Iowa's minority impact statement legislation is an illuminating lesson for advocates. While no state has adopted a model minority/racial impact statement, implementation of each statute has highlighted important lessons for how to strengthen the efficacy of minority/racial impact statements. Advocates should consider the following lessons learned from Iowa, Connecticut, Oregon and New Jersey:

1. Require that the minority/racial impact statement cover both youth and adult justice related legislation. If possible, require that the legislation also cover regulations, as done in New Jersey⁴⁰ and the state grantmaking process, as done in Iowa.⁴¹
2. Ensure that all legislators have the power to request a statement on a youth or adult justice related bill if it does not have a statement.
3. Statements should be available to the public before public committee hearings begin.
4. The agency developing the statements should use standardized, defined categories (i.e. negative, positive, no impact) to ensure the statements are meaningful and consistent.
5. Consider including race, ethnicity, disability, gender, and sexual orientation as potential identities to consider for the purposes of monitoring the impact of the youth and adult systems on particular populations.
6. Require that the statement includes an explanation of the methodology used to determine the impact. Oregon's law requires a "statement of the methodologies and assumptions used in preparing the estimate."⁴²
7. Require that the agency developing the statement provide a detailed and comprehensive analysis of the specific bill beyond the general census data on the state's general population versus its criminal justice population.
8. Require an annual report analysis of minority impact statements that includes how many were produced, how many were categorized as negative, positive, no impact, etc., and how many of each category were attached to bills that passed the legislature and were signed by the governor.
9. Provide language to include the opportunity to look retrospectively at the racial or minority impact of current law compared to proposed legislation.

³⁹Nellis, 8.

⁴⁰ NJ Rev. Stat. § 2C:48B-2 (2017).

⁴¹ Iowa Code Ann. § 2.56 (2019).

⁴² Or. Rev. Stat. § 137.683 (3)(c) (2020).

10. Prohibit legislation with a negative impact from being passed or require such legislation to include a mechanism for reducing the racially disparate impact of the law.
11. Include an accountability and oversight mechanism in the statute.

Conclusion

In order to fulfill their promise as an anti-racist tool and accomplish the intent of the drafters, the culture surrounding minority/racial impact statements must change. The agency drafting the statements must see it as a key function, and staff should have the necessary time and training to conduct a detailed analysis. Legislators and their staff must ask for minority/racial impact statements, discuss them with colleagues, and use them in debates.

Similarly, lobbyists, advocates, and constituents should consider minority/racial impact statements before expressing their opinion on a bill. These statements, like other anti-racist policies, are limited by the historical, social, and systemic challenges associated with white supremacy in policymaking and policy implementation. While minority/racial impact statements can be a meaningful tool to decrease the disparate impact of incarceration on minority communities, they are one tool, not a silver bullet. Reform at all stages of the criminal legal process, from policing practices to reentry opportunities, is necessary to actualize their intended impact.

Racial impact statements can have a greater impact on decreasing racial disparities when they are implemented robustly: all criminal and juvenile bills must contain a detailed analysis. The analysis must be publicly available early in the legislative process and a negative racial impact statement should prevent passage of legislation, at least and until the legislation has been modified to decrease its negative impact. Advocates in states where racial impact statements are being introduced as a tool to decrease disparities should take note of the lessons from this study and advocate for the model recommendations from this report.

Appendix A: Examples of Iowa MIS Categories

Positive Effect

Minority Impact

[Senate File 378](#) is expected to have a positive minority impact on the African American community. In FY 2018, 20.7% of the persons convicted of first offense marijuana possession were African American. The U.S. Census Bureau estimates that as of July 1, 2017, the population of Iowa is 4.5% African American. Please refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Negative Effect

Minority Impact

To the extent the Bill results in additional criminal convictions, there will be a disproportionate impact on minorities because approximately 16.0% to 18.0% of offenders convicted under the Bill's provisions may be minorities. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system.

Unknown Effect

Minority Impact

The minority impact of [SF 275](#) as amended is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of [SF 275](#) as amended cannot be estimated. The Bill establishes a new criminal offense, and the resulting cost to the Justice System cannot be estimated. The average State cost for one aggravated misdemeanor conviction ranges from \$4,700 to \$7,500. This estimate includes operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections for one conviction. The cost would be incurred across multiple years for prison and parole supervision.

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights

/s/ Holly M. Lyons

April 22, 2019

No Effect

Minority Impact: There is no minority impact expected as a result of this bill.

Sources

Department Human Rights, Criminal & Juvenile Justice Planning Division
Department of Agriculture and Land Stewardship

Holly M. Lyons

February 25, 2016

Minimal Effect

Minority Data Information: The impact on minorities is estimated to be minimal. Refer to the Legislative Services Agency (LSA) [Minority Impact Statements Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

Correctional Data Information: The average state cost for one Class C felony conviction ranges from \$7,800 to \$18,400. At this time it is estimated that only three prison admissions annually will fall into the Class C felony category and remain in prison longer than current law. The LSA [Correctional Impact Statements Memo](#) dated February 18, 2016, contains additional information.

Fiscal Impact

The fiscal impact on the corrections system and the indigent defense budget is estimated to be minimal.

Sources

Iowa Department of Human Rights, Criminal and Juvenile Justice Planning Division
Iowa Department of Corrections
Iowa State Public Defender

/s/ Holly M. Lyons

February 24, 2016

Appendix B: Statutory Examples

Iowa Code Section 8.11 Grant applications — minority impact statements.

1. Each application for a grant from a state agency shall include a minority impact statement that contains the following information:
 - a) Any disproportionate or unique impact of proposed policies or programs on minority persons in this state.
 - b) A rationale for the existence of programs or policies having an impact on minority persons in this state.
 - c) Evidence of consultation of representatives of minority persons in cases where a policy or program has an identifiable impact on minority persons in this state.
2. For the purposes of this section, the following definitions shall apply:
 - a) "Disability" means the same as defined in section 15.102.
 - b) "Minority persons" includes individuals who are women, persons with a disability, African Americans, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans.
 - c) "State agency" means a department, board, bureau, commission, or other agency or authority of the state of Iowa.
3. The office of grants enterprise management shall create and distribute a minority impact statement form for state agencies and ensure its inclusion with applications for grants.
4. The directives of this section shall be carried out to the extent consistent with federal law.
5. The minority impact statement shall be used for informational purposes.

Conn Gen. Stat. Sec. 2-24b. Racial and ethnic impact statement required for certain bills and amendments.

- (a) Beginning with the session of the General Assembly commencing on January 9, 2019, a racial and ethnic impact statement shall be prepared with respect to certain bills and amendments at the request of any member of the General Assembly. With respect to a bill favorably reported during the regular session, any such request shall be made not later than ten days after the deadline for the committee that introduced the bill to vote to report favorably under the joint rules of the House of Representatives and the Senate. With respect to an amendment introduced during the regular session, any such request shall be made at least ten days prior to the deadline for adjournment sine die of the regular session.
- (b) The joint standing committee of the General Assembly having cognizance of matters relating to government administration may make recommendations for a provision to be included in the joint rules of the House of Representatives and the Senate concerning the procedure for the preparation of such racial

and ethnic impact statements, the content of such statements and the types of bills and amendments with respect to which such statements should be prepared.

Oregon Revised Statute 137.683

Racial and ethnic impact statements for proposed legislation

(1) As used in this section, “criminal offender population” means all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime.

(2)(a) Upon written request from a member of the Legislative Assembly from each major political party, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement on proposed legislation that is related to crime and likely to have an effect on the criminal justice system.

(b) The statement shall describe the effects of the proposed legislation on the racial and ethnic composition of the criminal offender population.

(3) A racial and ethnic impact statement must be impartial, simple and understandable and must include, for racial and ethnic groups for which data are available, the following:

(a) An estimate of how the proposed legislation would change the racial and ethnic composition of those likely to be convicted of a criminal offense created or modified by the proposed legislation;

(b) An estimate of the average length of incarceration that each racial and ethnic composition group receives as a sentence, if applicable;

(c) A statement of the methodologies and assumptions used in preparing the estimate; and

(d) An estimate of the racial and ethnic composition of the crime victims who may be affected by the proposed legislation.

(4) The commission shall adopt rules to carry out the provisions of this section. [2017 c.614 §2]

Note: 137.683 (Racial and ethnic impact statements for proposed legislation) and 137.685 (Racial and ethnic impact statements for state measures) were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

NJ Rev Stat § 2C:48B-2 (2017)

2C:48B-2 Racial and ethnic impact statement for certain proposed rules.

3. In proposing a rule for adoption, the agency involved shall issue a racial and ethnic community criminal justice and public safety impact statement setting forth whether the proposed rule will have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in this State and, if so, how the rule would affect racial and ethnic minorities, including whether it is likely

to have a disproportionate or unique impact on the racial and ethnic communities in the State and the rationale for the proposed rule having an identifiable impact on racial and ethnic persons in this State, and any anticipated impact upon correctional facilities and services for racial and ethnic minorities, the adjudication of criminal and juvenile justice matters involving racial and ethnic minorities, and public safety in racial and ethnic communities and the victims and potential victims in those communities. This statement shall be included in the notice of a proposed rule as required by subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).

APPENDIX D

Urban Institute Guide for Racial Equity in the Research Process

THE PERMANENT COMMISSION ON THE STATUS OF RACIAL, INDIGENOUS, AND TRIBAL POPULATIONS

Draft Proposal for Racial Impact Statement Development Project for the Maine Legislature

Synopsis

In the interest of eliminating disparities for historically disadvantaged racial, indigenous, and tribal populations in the State of Maine, the Permanent Commission in collaboration with its research partners will pilot a program to provide Maine's legislators with a means of reviewing active legislation for its impact on racial disparities.

Parties

- Legislative Council
- The Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations ("Permanent Commission")
- University of Maine Systems ("UMS")
 - Cutler Institute, Muskie School of Public Service, University of Southern Maine
 - Margaret Chase Smith Policy Center, University of Maine

Process

- The Subcommittee nominates a pool of bills for consideration no later than December 1st
- Research team reviews these proposed bills from a feasibility perspective and reports back to the subcommittee on which are most impactful and feasible
- Racial Impact Statements will be provided to the legislative committees before the end of February 2022
 - format – in person? Written?

Roles

The Permanent Commission and the Maine University System together form the "Research Team" and are co-equal collaborators in the effort to produce racial impact statements to inform legislative decision-making processes. The Permanent Commission will head up qualitative research and analysis efforts among impacted communities while UMS will be responsible for carrying out quantitative research and analysis.

Selection of Bills for Pilot

The pilot will focus on carry-over bills (number as yet undetermined) from some or all of the following committees:

- Education
- Labor and Housing
- Health and Human Services
- Judiciary

Once bills are selected for review, the research teams will develop an approach that will be presented to the Subcommittee in December.

Racial Impact Statement (RIS) Framework:

The RIS shall respond to the following questions, adapted from a framework articulated by the Urban Institute:

- What problem is this policy/legislation addressing?
- Is the problem worse or exacerbated for people of color?
- What factors contribute to or compound racial inequities around this problem?
- More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
- What actors, at what levels of influence, could reduce these inequities?

The RIS will obtain both qualitative and quantitative information from which to draw conclusions.

Questions for the Subcommittee to consider:

- Preference with respect to quality vs. quantity for bills to analyze in the pilot?
- What types of bills should be piloted?
- Which bills does Subcommittee recommend?

Questions for the research teams to consider:

- Availability of data/information
- Data collection processes needed to answer the questions posed
- Feasibility of answering the questions posed within the timeframe

The Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations was established by the Legislature and signed into law in 2019. It is an independent entity with a mission to address systemic racism by examining racial disparities across all systems and working to improve the status and outcomes for historically disadvantaged racial, indigenous, and tribal populations. The Commission is empowered to advise all three branches of state government and to submit legislation.

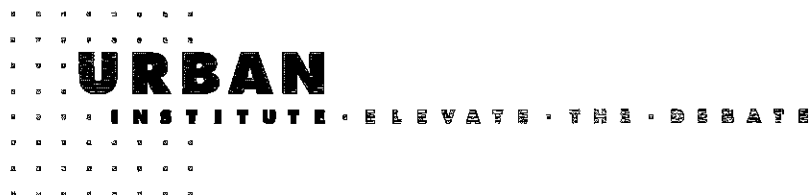
The Cutler Institute, the research arm of the Muskie School of Public Service, collaborates with partners throughout the nation and across the world to find sustainable practical solutions to critical societal issues. The experienced staff of the Cutler Institute work collaboratively to help organizations and communities thrive in a changing world by translating knowledge and best practices into sustainable solutions that are responsive to societal needs and focused on both short-term and long-term outcomes. Cutler Institute staff bring decades of experience and advanced degrees in areas of policy, social work, law, education, business administration, and public health. Our multidisciplinary approach

allows us to provide innovative outcomes to complex local, national, and international issues.

The Margaret Chase Smith Policy Center is a nonpartisan, independent research and public service unit of the University of Maine (UMaine). Created in 1989, the Center was named to continue the legacy of Senator Margaret Chase Smith who served as a model of civil discourse and integrity. The Policy Center informs public policy processes and societal decision-making through timely research and applied public policy activities focused on critical issues facing Maine and the nation.

APPENDIX E

Draft Proposal for Racial Impact Statement Process Pilot from Dr. Meadow Dibble



Urban Institute Guide for Racial Equity in the Research Process

Diversity, Equity, and Inclusion Council
Working Group on Content and Communications
September 2020 draft

Researchers at the Urban Institute have been considering how to shape and evolve the research and communications processes to ensure that our work is inclusive, respectful, and incorporates a racial equity lens. Though we originally developed this guide as an internal resource, we are releasing it publicly to share what we are learning and solicit feedback from our peers in the academic and nonprofit sectors. We do so with humility and a spirit of openness, keenly aware that we must continue to learn from voices of lived experience, particularly Black voices, and others who work for social justice.

This guide has three sources:

- a conversation between members of the original Urban Institute Diversity and Inclusion Steering Committee (DISC) and staff at the Center on Budget and Policy Priorities (CBPP) about CBPP's racial equity framework,
- brainstorming sessions by the DISC subcommittee on research and communications, and
- a cross-organization racial equity meeting with representatives from Urban Institute, CBPP, the Economic Policy Institute, and the Brookings Institution.

We encourage Urban Institute staff and our peers across sectors to provide feedback on this working document and suggest further refinements. The research and communications processes at Urban are highly decentralized, and we seek to provide guidance that is useful for and can support all efforts. Please send your comments and suggestions to disctoolkits@urban.org.

Although this guide focuses on racial equity, the principles can be applied to promote equity and inclusion more broadly.

Incorporating Racial Equity Guidance into the Research Process

Racial equity should be considered early and often in the research process. In the absence of required procedures, we recommend researchers consider all the following opportunities to promote racial equity in their work.

Using This Guide

- **Proposal planning:** Review this guide when drafting your proposal to ensure that you, your team, and your funders are aware of a racial equity focus in your research.

- **Kickoff meeting and early design phase:** Review the questions in this guide during kickoff meetings or when planning kickoff meetings, as well as during the early design phase. This ensures that the research team is alert to racial equity concerns and that the final research design incorporates a racial equity framework.
- **Institutional Review Board memorandum:** Urban's Institutional Review Board typically assures that research procedures guarantee proper protections for the people being studied (i.e., human subjects protections). But the benefits and costs of research—which are also assessed and compared by the Institutional Review Board—may vary across racial and ethnic groups. Review the questions in this guide when preparing your Institutional Review Board memorandum and consider how you can incorporate racial equity into your understanding of human subjects protection.
- **Communications planning:** Urban's Communications department can help researchers develop products (including reports, blog posts, features, events, and media and outreach strategies) that accurately frame research and point to meaningful solutions to advance racial equity—and ensure that those products reach changemakers focused on racial equity. Review the questions in this guide before or while collaborating with Communications teams.

Promoting or Disseminating This Guide

- **Brownbags and presentations:** The DEI Council should consider holding brownbags or presentations at center staff meetings to discuss the Guide for Racial Equity in the Research Process. These should be considered opportunities to disseminate the guide and solicit feedback on it.
- **Resource libraries and trainings:** The DEI Council should link to and incorporate the guide in various resource libraries and trainings, including the proposal resource library and any Institute-wide training on diversity and inclusion.
- **Project meetings with the Communications Department:** Communications staff can share this guide and the language toolkits at kickoff meeting for communications products.

Key Questions to Promote Racial Equity in the Research Process

When Conceptualizing Your Research

All researchers should consider the following questions when they are still developing their problem statement and research questions:

- What problem is this research addressing?
- Is the problem worse or exacerbated for people of color?
- What factors contribute to or compound racial inequities around this problem? More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts? What actors, at what levels of influence, could reduce these inequities?

- How are changemakers who use a racial equity lens or changemakers from diverse backgrounds approaching these racial inequities?
- What steps can be taken now to ensure research findings will be communicated effectively to the people being studied, appropriate policy actors, and other changemakers?

Researchers who are unsure if their research focuses on racial equity should consider these questions:

- What opportunities are there to highlight or study the barriers faced by people of color?
- Can the project be completed with integrity without analyses of racial and ethnic groups?
- How will barriers, structural racism, or historic discrimination be included in the framing of the research?
- How will voices from the community be incorporated into the research process, either as a part of the research design phase or product review? How will these voices be incorporated in communications products, from research reports to outreach?
- What have researchers from the populations being studied written on the subject? How will these researchers be cited?

When Writing the Proposal

- How can we include representation from the community being studied in the proposal process?
 - » Do we have a relationship with the program or community we propose to study? If so, can we consult them for input?
 - » How can past community-based research inform the proposal?
 - » Can the external affairs team or other colleagues connect us to advocacy, nonprofit, civil rights, social justice, or legal advocacy groups who work closely on the topic with a racial equity lens?
- How do we acknowledge data constraints and other issues that restrict what can and cannot be concluded about underrepresented populations? Where can we get information and data that alleviate these constraints?
- What resources do we need to communicate findings effectively and appropriately? Which communications products best demonstrate the changes needed to advance racial equity?
- Does the proposal use language and terms recommended in the DEI toolkits?
- Does the proposal advance Urban's commitment to racial equity?
- Are racial equity issues identified in the proposal's statement of understanding of the problem? Are we acknowledging the institutions and policies that created and perpetuate racial inequity, regardless of the proposed scope of work?

For Research with Rigid Requirements for Analysis and Products

Some research projects may be constrained by requirements placed on the analysis, the research product, the communications products, or all of the above. For example, many solicitations for federal evaluation contracts include detailed research questions that must be answered or analyses that must

be undertaken. When your research is constrained in this way, use these questions to promote racial equity in your research.

- How can a racial equity lens be incorporated in the introductory statement of the problem?
- Is there scope for subgroup analysis beyond the required analyses? Can this subgroup analysis have accompanying explanatory text? If so, could that text include an explicit discussion of racial equity, instead of a simple reporting of the results?
- Is the research mixed-methods?
 - » Can the voices of the people studied be integrated into the research product through qualitative research?
 - » Can qualitative findings be integrated into discussions of quantitative subgroup analyses?
 - » How can communications and dissemination elevate community voices?
- Can a racial equity lens distinguish you from competitors? Even if research requirements are rigidly laid out, would the funder be interested in the addition of a racial equity lens?
- For research projects already awarded, what companion communications products could build on the research, identify solutions, and move the country toward racial equity? Could a blog post, event, Hill briefing, or podcast—with an alternate funder—allow for a fuller discussion on the systems, structures and changes needed?

When Conducting Qualitative Research

- How are interview subjects and sites selected?
 - » Do we have data on site-specific demographics to use for site selection? If not, do we have demographics of the local community?
 - » Can demographic information be obtained without quantitative data? Can program staff provide information on the demographics of their clients?
- Can we include the people we are studying when designing our survey instrument or interview protocol?
 - » Can we pretest the instrument with representatives of the population?
 - » Can representatives of the population studied help design the instrument?
 - » Have we consulted the DEI language toolkits while drafting our instruments?
- Does the survey instrument or interview protocol include questions that address racial equity?
 - » Do these questions need to be explicit? (Questions to program staff may need to ask about barriers or disparities faced by people of color. Questions to clients or individuals might ask about barriers in general or be phrased using a racial equity framework.)
- Do all survey instruments and interview protocols guarantee anonymity? (Respondents whose race or ethnicity is mentioned may be identifiable. Does the final report take proper precautions in ensuring anonymity, particularly as it relates to responses pertaining to racial equity?)

When Conducting Quantitative Research

- What data are available about our research topic? Are those data broken down by race and ethnicity? How detailed is the racial and ethnic breakdown?
- Is the data we plan to use the best available when disaggregated by race?
- Are we correctly differentiating between income levels and race, making sure not to conflate the two and making sure not to perpetuate stereotypes?
- Have we considered unconventional data sources?
- Is the analysis produced and the data made available and accessible at the appropriate level of detail and complexity for actionable policy solutions and change?
- Who are we leaving out of our analysis?
 - » Could we include these populations using alternative data sources?
 - » If there is no possibility of including these populations, how do we acknowledge their exclusion in a note or in-text description? Do we cite other research on excluded populations? How do the DEI language toolkits suggest we phrase this acknowledgement?
- Are the data labeled respectfully and inclusively?
 - » Have we consulted the DEI language toolkits?
 - » Have we fully documented our decisions around data labels and excluded populations?

When Forming Research Teams

The composition and organization of research teams shapes the research process as much as the data, methods, or research questions. A respectful and inclusive research environment improves Urban's workplace culture, and it ensures that the research reflects diverse insights and perspectives. Ask these questions as you build your research team.

- How does our research team reflect diverse perspectives? If it doesn't, is it possible to include underrepresented perspectives on the team?
- If there are barriers to assembling a diverse research team, is it possible to include underrepresented perspectives by asking external reviewers or experts to comment on the research?
- How will the research process include the voices of early-career staff?
 - » What processes are in place to ensure that early-career staff can voice their perspective?
 - » Are early career staff aware of these processes? Have you asked them? (Consider clarifying the role and the importance of early-career staff at the kickoff meeting and other key points in the research process.)
- Are project leaders communicating with colleagues who supervise early-career team members, so early-career staff working on multiple projects have a manageable and fulfilling workload?

When Writing Research and Communications Products

- How are we using a racial equity lens to frame the problem?
- What do Urban's DEI language toolkits suggest considering before writing?
- What findings in our research point to specific actors and institutions who can make structural change and advocate for racial equity? How do these changemakers consume information, and which communications products reach them most effectively? Are we invested in creating those additional research or communications products?
- Does our writing include examples or cases that may reinforce stereotypes? Can we add other examples or acknowledge a wide variety of experiences?
- Does our writing identify historical context and the structures and institutions involved? Does our writing start with the system, leading to race rather than *with* race? Does it explain how racial inequity is created and maintained? Does it specify the actions needed (e.g., change in statute, regulation, budgeting) to address racial inequity, and at what magnitude? If the barriers are in governmental systems, can the LAB or the government affairs team help identify policy levers?
- Do we cite researchers that consider these problems from a racial equity perspective?
- Do we cite researchers who come from the people studied?
- Have we given the people studied the opportunity to review our research product?
- Are we writing in a format that the people studied will find approachable? Or have we planned for a companion product or dissemination method that will accomplish this?
- Does the research product—in addition to communications products—elevate marginalized voices?
- Is lived experience—a powerful form of evidence—included in the research and communications products?
- Have we consulted the Communications department to ensure that all images used (including charts, graphics, and photographs) are inclusive and do not perpetuate stereotypes?

When Developing Communication Products and Dissemination Strategies

For all communication products, consider the following questions:

- Is our work accessible to the people we are studying?
- Are our products written for nontechnical readers? What accompanying fact sheet, brief, feature, or blog post can ensure our findings are accessible to a broader audience?
- Could translating our products help us reach the groups we are studying? Have we discussed translation service options with the Communications department?
- If we're writing a blog post, have we consulted with the blog team and reviewed its guidance on including a racial equity lens?

- Do our products elevate diverse voices, including those of early-career research staff, populations being studied, people with lived experience, or marginalized voices?

For events, consider the following questions:

- Have we consulted with the events team and reviewed its guidance on creating diverse, equitable, and inclusive events?
- Have we addressed the racial equity implications of the work in the framing and format of the event?
- Have we worked with the events team to develop an inclusive panel of presenters for events?
- Have we worked with the events team to invite a diverse audience to our event?

For strategic communication plans and media outreach, consider these questions:

- Have we pursued diverse media sources to promote our research?
- Have we ensured a racial equity lens, historical context, and actions to address racial inequity are included in our message management document, key points, and other talking points?

For outreach to stakeholders and policymakers, consider the following:

- Have we worked with the government affairs team to accurately identify the governmental systems and structures that are perpetuating racial inequality? How do we plan to reach and engage these systems/actors with our research findings?
- Have we worked with the stakeholder outreach team to ensure that our emails, briefings, and meetings are available to a diverse group of changemakers, including community activists, the public, high-level funders, policymakers, and advocates?
- Do our outreach emails, including those sent from researchers, use an inclusive tone and follow best writing practices for advancing racial equity?

For social media promotion and outreach, consider the following questions:

- Do our social media promotion plans acknowledge and credit community partners or organizations, early-career staff, people with lived experiences, and others for their contributions? Have we shared contributors' social media handles with the social media team?
- Does our social media messaging acknowledge the role of systems in perpetuating inequities (versus individual behavior) or link to content that does?
- If our outreach plans include paid advertising, have we consulted with the digital and external affairs teams about the best strategies and platforms for reaching and engaging diverse audiences?

Additional Resources

- "Applying Racial Equity Awareness in Data Visualization," https://medium.com/@urban_institute/applying-racial-equity-awareness-in-data-visualization-bd359bf7a7ff
- "Confronting Structural Racism in Research and Policy Analysis: Charting a Course for Policy Research Institutions," <https://www.urban.org/research/publication/confronting-structural-racism-research-and-policy-analysis>
- "How We Should Talk about Racial Disparities," <https://www.urban.org/urban-wire/how-we-should-talk-about-racial-disparities>
- "People First: Changing the Way We Talk about People Touched by the Criminal Justice System," <https://www.urban.org/urban-wire/people-first-changing-way-we-talk-about-those-touched-criminal-justice-system>
- "Reckoning with Structural Racism in Research," <https://www.urban.org/urban-wire/reckoning-structural-racism-research-lbjs-legacy-and-urbans-next-50>
- "What Would It Take to Overcome the Damaging Effects of Structural Racism and Ensure a More Equitable Future?" <https://next50.urban.org/question/structural-racism>

Urban's research products and blog posts on structural racism are collected at <https://www.urban.org/features/structural-racism-america>.



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www.urban.org

ABOUT THE URBAN INSTITUTE

The nonprofit Urban Institute is a leading research organization dedicated to developing evidence-based insights that improve people's lives and strengthen communities. For 50 years, Urban has been the trusted source for rigorous analysis of complex social and economic issues; strategic advice to policymakers, philanthropists, and practitioners; and new, promising ideas that expand opportunities for all. Our work inspires effective decisions that advance fairness and enhance the well-being of people and places.

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APPENDIX F

**Memorandum to pilot committees providing
guidance on reporting back to the Legislative Council**

Danielle Fox, Director,
Office of Policy and Legal Analysis

Suzanne M. Gresser, Executive Director
Executive Director's Office



Representative Rachel Talbot Ross, Chair
Speaker of the House Ryan M. Fecteau
Representative Kathleen Dillingham
Senator Matthea Daughtry
Senator Matt Pouliot

**STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE**

**LEGISLATIVE COUNCIL SUBCOMMITTEE TO
IMPLEMENT A RACIAL IMPACT STATEMENT
PROCESS PILOT**

M E M O R A N D U M

Date: January 5, 2022

To: Senator Joseph Rafferty, Chair
Representative Michael Brennan, Chair
Members, Joint Standing Committee on Education and Cultural Affairs

From: Representative Rachel Talbot Ross, Chair
Legislative Council Subcommittee to Implement a Racial Impact Statement Process Pilot

RE: Guidance to Committees selected for Process Pilot

Pursuant Public Law 2021, chapter 21, the Legislature is conducting a racial impact statement process pilot as designed by a subcommittee of the Legislative Council. Conducting this pilot will inform the development of an ongoing process to incorporate the such statements into the consideration of LDs before the Legislature.

The Legislative Council Subcommittee was charged with selecting up to 4 committees who will take part in the pilot and then provide a report back to the Legislative Council no later than 30 days after the adjournment of the Second Regular Session. After a careful review of potential LDs to include as part of this pilot, the Legislative Council Subcommittee designated for inclusion in the pilot the following bill carried over in your committee:

- LD 270 An Act To Amend the Regional Adjustment Index to Ensure School Districts Do Not Receive Less than the State Average for Teacher Salaries

The Legislative Council Subcommittee has arranged for a research team consisting of the University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy Center, and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations to

conduct an analysis, using a framework developed by the Legislative Council Subcommittee, to produce a racial impact statement for each of the bills selected for the pilot by the end of February 2022. The following framework will guide the research team's analysis in developing each statement:

Analysis Framework for Racial Impact Statements

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and, when feasible, conclude whether the proposed policy or proposed change to existing policy; reduces inequities for historically disadvantaged racial populations, has a neutral impact on inequities among historically disadvantaged racial populations, or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

In order for the Legislative Council to assess the viability of the expansion of this pilot in accordance with chapter 21, we will need your input on your experience with the pilot. In addition to the report elements described in chapter 21, the Legislative Council would like to know after adjournment of the Second Regular Session, for each LD in your committee for which a racial impact statement is provided, your opinion regarding:

1. Whether the timeframe in which the racial impact statement was provided to the committee was useful, or whether receipt of the racial impact statement at a different point in time might have proven more useful;
2. How much, if any, additional time did the committee devote to discussion and consideration of the bill as a result of the racial impact statement;
3. Whether the information provided in the racial impact statement served to advance discussion of the bill in committee;
4. Whether information provided in the racial impact statement influenced the development by the committee of amendments to the bill; and
5. Whether the information provided in the racial impact statement had an impact on the committee's vote on the bill.

If you have any additional observations or suggestions concerning your experience with the racial impact statement process pilot, please include them in your report.

Thank you for your participation and input on this very important project.

Danielle Fox, Director,
Office of Policy and Legal Analysis

Suzanne M. Gresser, Executive Director
Executive Director's Office



Representative Rachel Talbot Ross, Chair
Speaker of the House Ryan M. Fecteau
Representative Kathleen Dillingham
Senator Matthea Daughtry
Senator Matt Pouliot

**STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE**

**LEGISLATIVE COUNCIL SUBCOMMITTEE TO
IMPLEMENT A RACIAL IMPACT STATEMENT
PROCESS PILOT**

M E M O R A N D U M

Date: January 5, 2022

To: Senator Ned Claxton, Chair
Representative Michele Meyer, Chair
Members, Joint Standing Committee on Health and Human Services

From: Representative Rachel Talbot Ross, Chair
Legislative Council Subcommittee to Implement a Racial Impact Statement
Process Pilot

RE: Guidance to Committees selected for Process Pilot

Pursuant Public Law 2021, chapter 21, the Legislature is conducting a racial impact statement process pilot as designed by a subcommittee of the Legislative Council. Conducting this pilot will inform the development of an ongoing process to incorporate the such statements into the consideration of LDs before the Legislature.

The Legislative Council Subcommittee was charged with selecting up to 4 committees who will take part in the pilot and then provide a report back to the Legislative Council no later than 30 days after the adjournment of the Second Regular Session. After a careful review of potential LDs to include as part of this pilot, the Legislative Council Subcommittee designated for inclusion in the pilot the following bills carried over in your committee:

- LD 372 An Act To Provide Children Access to Affordable Health Care
- LD 1574 An Act To Ensure Support for Adults with Intellectual Disabilities or Autism with High Behavioral Need
- LD 1693 An Act To Advance Health Equity, Improve the Wellbeing of All Maine People and Create a Health Trust

The Legislative Council Subcommittee has arranged for a research team consisting of the University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy Center, and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations to conduct an analysis, using a framework developed by the Legislative Council Subcommittee, to produce a racial impact statement for each of the bills selected for the pilot by the end of February 2022. The following framework will guide the research team's analysis in developing each statement:

Analysis Framework for Racial Impact Statements

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and, when feasible, conclude whether the proposed policy or proposed change to existing policy; reduces inequities for historically disadvantaged racial populations, has a neutral impact on inequities among historically disadvantaged racial populations, or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

In order for the Legislative Council to assess the viability of the expansion of this pilot in accordance with chapter 21, we will need your input on your experience with the pilot. In addition to the report elements described in chapter 21, the Legislative Council would like to know after adjournment of the Second Regular Session, for each LD in your committee for which a racial impact statement is provided, your opinion regarding:

1. Whether the timeframe in which the racial impact statement was provided to the committee was useful, or whether receipt of the racial impact statement at a different point in time might have proven more useful;
2. How much, if any, additional time did the committee devote to discussion and consideration of the bill as a result of the racial impact statement;
3. Whether the information provided in the racial impact statement served to advance discussion of the bill in committee;
4. Whether information provided in the racial impact statement influenced the development by the committee of amendments to the bill; and
5. Whether the information provided in the racial impact statement had an impact on the committee's vote on the bill.

If you have any additional observations or suggestions concerning your experience with the racial impact statement process pilot, please include them in your report.

Thank you for your participation and input on this very important project.

Danielle Fox, Director,
Office of Policy and Legal Analysis

Suzanne M. Gresser, Executive Director
Executive Director's Office



Representative Rachel Talbot Ross, Chair
Speaker of the House Ryan M. Fecteau
Representative Kathleen Dillingham
Senator Matthea Daughtry
Senator Matt Pouliot

**STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE**

**LEGISLATIVE COUNCIL SUBCOMMITTEE TO
IMPLEMENT A RACIAL IMPACT STATEMENT
PROCESS PILOT**

M E M O R A N D U M

Date: January 5, 2022

To: Senator Anne Carney, Chair
Representative Thom Harnett, Chair
Members, Joint Standing Committee on Judiciary

From: Representative Rachel Talbot Ross, Chair
Legislative Council Subcommittee to Implement a Racial Impact Statement
Process Pilot

RE: Guidance to Committees selected for Process Pilot

Pursuant Public Law 2021, chapter 21, the Legislature is conducting a racial impact statement process pilot as designed by a subcommittee of the Legislative Council. Conducting this pilot will inform the development of an ongoing process to incorporate the such statements into the consideration of LDs before the Legislature.

The Legislative Council Subcommittee was charged with selecting up to 4 committees who will take part in the pilot and then provide a report back to the Legislative Council no later than 30 days after the adjournment of the Second Regular Session. After a careful review of potential LDs to include as part of this pilot, the Legislative Council Subcommittee designated for inclusion in the pilot the following bills carried over in your committee:

- LD 982 An Act To Protect against Discrimination of Public Entities
- LD 1068 An Act T0o Restrict Weapons Pursuant to Court Order in Cases of Harassment

The Legislative Council Subcommittee has arranged for a research team consisting of the University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy

Center, and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations to conduct an analysis, using a framework developed by the Legislative Council Subcommittee, to produce a racial impact statement for each of the bills selected for the pilot by the end of February 2022. The following framework will guide the research team's analysis in developing each statement:

Analysis Framework for Racial Impact Statements

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and, when feasible, conclude whether the proposed policy or proposed change to existing policy; reduces inequities for historically disadvantaged racial populations, has a neutral impact on inequities among historically disadvantaged racial populations, or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

In order for the Legislative Council to assess the viability of the expansion of this pilot in accordance with chapter 21, we will need your input on your experience with the pilot. In addition to the report elements described in chapter 21, the Legislative Council would like to know after adjournment of the Second Regular Session, for each LD in your committee for which a racial impact statement is provided, your opinion regarding:

1. Whether the timeframe in which the racial impact statement was provided to the committee was useful, or whether receipt of the racial impact statement at a different point in time might have proven more useful;
2. How much, if any, additional time did the committee devote to discussion and consideration of the bill as a result of the racial impact statement;
3. Whether the information provided in the racial impact statement served to advance discussion of the bill in committee;
4. Whether information provided in the racial impact statement influenced the development by the committee of amendments to the bill; and
5. Whether the information provided in the racial impact statement had an impact on the committee's vote on the bill.

If you have any additional observations or suggestions concerning your experience with the racial impact statement process pilot, please include them in your report.

Thank you for your participation and input on this very important project.

Danielle Fox, Director,
Office of Policy and Legal Analysis

Suzanne M. Gresser, Executive Director
Executive Director's Office



Representative Rachel Talbot Ross, Chair
Speaker of the House, Ryan M. Fecteau
Representative Kathleen Dillingham
Senator Matthea Daughtry
Senator Matt Pouliot

**STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE**

**LEGISLATIVE COUNCIL SUBCOMMITTEE TO
IMPLEMENT A RACIAL IMPACT STATEMENT
PROCESS PILOT**

M E M O R A N D U M

Date: January 5, 2022

To: Senator Craig Hickman, Chair
Representative Mike Sylvester, Chair
Members, Joint Standing Committee on Labor and Housing

From: Representative Rachel Talbot Ross, Chair
Legislative Council Subcommittee to Implement a Racial Impact Statement
Process Pilot

RE: Guidance to Committees selected for Process Pilot

Pursuant Public Law 2021, chapter 21, the Legislature is conducting a racial impact statement process pilot as designed by a subcommittee of the Legislative Council. Conducting this pilot will inform the development of an ongoing process to incorporate the such statements into the consideration of LDs before the Legislature.

The Legislative Council Subcommittee was charged with selecting up to 4 committees who will take part in the pilot and then provide a report back to the Legislative Council no later than 30 days after the adjournment of the Second Regular Session. After a careful review of potential LDs to include as part of this pilot, the Legislative Council Subcommittee designated for inclusion in the pilot the following bill carried over in your committee:

- LD 965 An Act Concerning Nondisclosure Agreements in Employment

The Legislative Council Subcommittee has arranged for a research team consisting of the University of Maine System, including the Cutler Institute and the Margaret Chase Smith Policy Center, and the Permanent Commission on Racial, Indigenous and Maine Tribal Populations to conduct an analysis, using a framework developed by the Legislative Council Subcommittee, to

produce a racial impact statement for each of the bills selected for the pilot by the end of February 2022. The following framework will guide the research team's analysis in developing each statement:

Analysis Framework for Racial Impact Statements

For the purposes of the pilot to implement a racial impact statement, the analysis conducted for the selected legislation should address the five questions below and, when feasible, conclude whether the proposed policy or proposed change to existing policy; reduces inequities for historically disadvantaged racial populations, has a neutral impact on inequities among historically disadvantaged racial populations, or exacerbates inequities among historically disadvantaged racial populations. When a conclusion is not feasible, the statement should describe the limitations or barriers which impeded concluding an impact and whether relevant regional or national trends exist which may provide helpful information.

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?

In order for the Legislative Council to assess the viability of the expansion of this pilot in accordance with chapter 21, we will need your input on your experience with the pilot. In addition to the report elements described in chapter 21, the Legislative Council would like to know after adjournment of the Second Regular Session, for each LD in your committee for which a racial impact statement is provided, your opinion regarding:

1. Whether the timeframe in which the racial impact statement was provided to the committee was useful, or whether receipt of the racial impact statement at a different point in time might have proven more useful;
2. How much, if any, additional time did the committee devote to discussion and consideration of the bill as a result of the racial impact statement;
3. Whether the information provided in the racial impact statement served to advance discussion of the bill in committee;
4. Whether information provided in the racial impact statement influenced the development by the committee of amendments to the bill; and
5. Whether the information provided in the racial impact statement had an impact on the committee's vote on the bill.

If you have any additional observations or suggestions concerning your experience with the racial impact statement process pilot, please include them in your report.

Thank you for your participation and input on this very important project.