



# racial impact statements are a legislative imperative

by jazz lewis

In 1986, after the drug overdose death of University of Maryland basketball star Len Bias, Congress passed the Anti-Drug Abuse Act. This act became the genesis of disparities in sentencing between African Americans and their White counterparts. From this act, federal mandatory minimum sentences created a 100:1 crack cocaine to powder cocaine sentencing disparity for the next 30 years. Inadvertently, the bill ensured that African Americans would see the inside of a prison cell more often and for longer than any other race.

Today, one of every nine Black males between the ages of 20 and 34 is in prison or jail, and Black people are 34% of the 6.8 million people incarcerated in the United States. African Americans are more than five times as likely to be incarcerated as Whites, and though they are just 12.5% of illicit drug users

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in this country, they are 29% of those arrested for drug offenses and 33% of those incarcerated in state facilities for such crimes. Among child arrests, according to the NAACP in 2019, Black children represent 42% of all those detained, 32% of those arrested, and 52% all child cases judicially waived to criminal court.

Organizations and lawmakers are more consciously working today to analyze laws and their resulting disparities through a racial equity lens. These staggering disparities persist for minorities across the majority of the United States, making the widespread adoption of racial impact statements urgent. Racial impact statements are helpful tools, assisting lawmakers as they consider whether proposed legislation will have any adverse effects on minority communities relative to Whites that would create or contribute to additional disparities. The majority of racial impact statements target legislation that pertains to the criminal justice system including but not limited to sentencing guidelines, new criminal offenses, and parole or procedural standards.

Policymakers need to proactively address racial disparities before legislation hits the governor's desk in the way they consider legislative impacts in other areas: We create environmental assessments for bills that could have adverse effects on the

environment. We create health assessments for bills focusing on the health effects of specific laws on society as a whole. We create fiscal notes to consider the potential financial impact of every piece of legislation. It is imperative that we begin to use racial impact statements as carefully and consistently as these other reports.

Three states have adopted legislation mandating racial impact statements for proposed bills: Iowa, Connecticut, and Oregon. In 2008, Iowa passed legislation allowing policymakers to call for a racial impact statement for any legislation on changes in sentencing or parole. This law was proposed after a Sentencing Project finding that the state had the largest prison population disparity across the U.S. The same year, Connecticut followed suit, requiring racial impact statements for bills concerning pre-trial and sentenced populations. Moreover, in 2013, Oregon, with guidance from Nicole Porter and the Sentencing Project, allowed policymakers to request racial impact statements for criminal justice and child welfare legislation.

In Iowa and Connecticut, racial impact statements can be requested from any legislator and are prepared by the Iowa Legislative Services Agency and the Office of Legislative Research and the Office of Fiscal Analysis, respectively. In Oregon, a legislator from each major political party must submit a request for a racial impact statement, and the Oregon Criminal Justice Commission prepares the statement. As more states consider racial impact statements, it is imperative that legislators listen to community members and organizations such as Adar Ayira and the Associated Black Charities of Maryland, who educate members of the Maryland General Assembly on racial equity.

Racial impact statements take a proactive approach to reducing the many flaws in the criminal justice system. Many states have overwhelming minority arrest rates, prison populations, and youth engagement with the criminal justice system. Today, racial minorities still feel the effects of the War on Drugs. These are not reversible. However, through racial impact statements, we have an opportunity to make sure the mistakes of the War on Drugs are never repeated.

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