



WASHINGTON STATE

MINORITY AND JUSTICE COMMISSION &
SENTENCING GUIDELINES COMMISSION

JOINT MEETING
RACIAL IMPACT STATEMENTS

TUKWILA COMMUNITY CENTER, SOCIAL ROOM
TUKWILA, WASHINGTON 98032
FRIDAY, NOVEMBER 14, 2014, AT 8:45 A.M.



**WASHINGTON STATE
Minority and Justice Commission &
Sentencing Guidelines Commission
Joint Meeting**



RACIAL IMPACT STATEMENTS

Friday, November 14, 2014, 8:45 a.m. – 11:00 a.m.
Tukwila Community Center, Social Room
Tukwila, Washington

AGENDA

- 8:45 - 9 a.m. WELCOME & COMMISSION INTRODUCTIONS**
Justice Charles Johnson and Justice Mary Yu, *Co-Chairs of the Minority and Justice Commission*
Dave Boerner, Esq., *Chair of the Sentencing Guidelines Commission*
- 9 - 9:45 a.m. EXPLORING RACIAL IMPACT STATEMENTS – WHAT WE CAN LEARN FROM OREGON**
Jen Lleras, *RACE Program Director, Western States Center, Portland, Oregon*
- 9:45 -10:15 a.m. RACIAL DISPROPORTIONALITY STUDY PROPOSAL**
Dave Boerner, Esq., *Chair of the Sentencing Guidelines Commission*
- 10:15 – 11 a.m. FACILITATED OPEN DISCUSSION**
- 11 a.m. CONCLUDE JOINT MEETING**
Please feel free to join us for our Commission Business Meetings
- 11 -12 p.m. COMMISSION BUSINESS MEETINGS**
Minority and Justice Commission – *Social Room*
Sentencing Guidelines Commission – *Meeting Room B*



Racial Impact Statements Changing Policy to Address Disparities

Criminal justice policies often have unintended consequences that would best be addressed prior to the adoption of new initiatives. Racial impact statements are a tool that can provide a constructive means for policymakers to proactively assess how proposed sentencing laws may affect racial and ethnic disparities in the justice system. Similar to fiscal or environmental impact statements, racial impact statements provide legislators with a statistical analysis of the projected impact of policy changes prior to legislative deliberation. If a proposed initiative is projected to have a disproportionate racial impact, legislators may nonetheless choose to support it if they believe it provides public safety benefits, or seek alternative policies that meet the goals of public safety without exacerbating racial disparities.

Preparation of Racial Impact Statements

- Depending on the jurisdiction, a variety of mechanisms and agencies could be charged with preparing racial impact statements that include:
 - Sentencing Commissions – In addition to the federal system, 21 states and the District of Columbia currently have a sentencing commission that in most cases should be capable of producing racial impact statements.
 - Budget and Fiscal Agencies – Many state legislative analysts routinely produce fiscal and other analyses of legislative initiatives, and could be delegated to produce racial impact statements too.
 - Departments of Corrections – State and federal corrections agencies generally have sophisticated analytical tools with which they can produce detailed forecasts of changes in prison populations based on sentencing data and trends. To the extent their databases contain information on race and ethnicity, it is likely that they could produce racial impact statements.

State Momentum Builds to Implement Racial Impact Statements

- In Iowa a bill requiring racial impact analysis and the impact of sentencing or parole changes on racial ethnic minorities passed in 2008 with nearly unanimous support.
- The Connecticut legislature approved a bill requiring racial and ethnic impact statements to be prepared for bills and amendments that would increase or decrease the pretrial or sentenced population.
- During 2009, Oregon and Texas introduced legislative measures to require racial impact assessments in the consideration of new sentencing laws.

While some might argue that racial impact statements “inject race” into public policy, they merely bring to light data on the already existing racial dynamics of criminal justice policy. In addition, the ripple effects of current policy extend the impact of incarceration beyond the individual in prison to families and entire communities. There should not be any inherent contradiction in promoting effective crime control polices while reducing unwarranted racial disparity, and in fact, the two goals are best addressed simultaneously. Racial impact statements provide a tool for policymakers and the general public to begin to grapple with how to develop public policy that is both effective and fair.



Racial Impact Statements - *What are other states doing?*

Minnesota

PASSED - The Sentencing Guidelines Commission in Minnesota initiated the racial impact statement process in 2007.

- **HOW THEY ARE USED** - Produced alongside fiscal notes, racial impact statements are for informational purposes only.
- **INITIATED WHEN** - Racial impact statements are triggered when crime bills are proposed.
- **USAGE** - The Minnesota Sentencing Guidelines Commission has conducted nine notes since 2009.

Iowa

PASSED - Iowa passed racial impact statement legislation, Iowa Code Annotated 2.56, in 2007.

- **HOW THEY ARE USED** - Statements are provided with fiscal and correctional data and are for informational purposes only.
- **INITIATED WHEN** - Racial impact statements must be conducted when certain proposals would create or change a public offense or its penalty, or would change existing sentencing, parole, or probation procedures.
 - Legislators may also request racial impact statements.
- **USAGE** - The Fiscal Services Department of Legislative Services has conducted 45 notes as of 2013.

Connecticut

PASSED: Connecticut's legislation, General Statute Annotated Section 2-24b Racial and Ethnic Impact Statements, was passed in 2008.

- **HOW THEY ARE USED** - The statement may take one of three forms: (1) indicate the estimated disparate impact on correctional facilities; (2) indicate that the information cannot be determined; or (3) indicate that information cannot be determined within the requisite time.
 - Connecticut requires a disclaimer that statements are for informational purposes only.
- **INITIATED WHEN** - Racial impact statements are conducted when a majority of present committee members request one, and may be attached to any bill that affects the population of correctional facilities in the state.
- **USAGE** - The Office of Legislative Research and Office of Fiscal Analysis has conducted one note since passage.

Oregon

PASSED - Oregon, the most recent state to pass racial impact statement legislation, Oregon Laws Chapter 600, did so in 2013.

- **HOW THEY ARE USED** - The Oregon Criminal Justice Commission conducts the statements.
 - Racial Impact Statements are for information purposes only, but must be made available to the public for a hearing.
- **INITIATED WHEN** - Statements are conducted at the request of at least one legislator from each major political party, for any legislation that may affect the racial and ethnic composition of the criminal offender population.
- **USAGE** - Oregon has not yet conducted a racial impact statement

Other States

- **Arkansas, Maryland, Texas, and Washington** have all proposed racial impact statement legislation in prior years. While the past attempts at passing legislation have not been successful, states like **Arkansas** intend to reintroduce a bill this upcoming 2015 session.

Considerations for Washington in Looking at Other States

- Who should conduct the racial impact statement?
- How should the racial impact statement be used?
- When should racial impact statements be conducted?
- Should they be attached to certain pieces of legislation?

CHAPTER 600

AN ACT

SB 463

Relating to racial and ethnic impact statements; creating new provisions; and amending ORS 137.656 and 251.185.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "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.

(b) "Recipients of human services" means all persons who are found to be within the jurisdiction of the juvenile court under ORS 419B.100 or who receive child welfare services described in ORS 418.005.

(2) To obtain a racial and ethnic impact statement described in this section, one member of the Legislative Assembly from each major political party must sign a written request. Upon receipt of the written request, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement that describes the effects of proposed legislation on the racial and ethnic composition of:

(a) The criminal offender population; or

(b) Recipients of human services.

(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 the criminal offender population or recipients of human services;

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

(c) If the racial and ethnic impact statement addresses the effect of proposed legislation on the criminal offender population, 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.

SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS chapter 250.

SECTION 3. (1) To obtain a racial and ethnic impact statement described in this section, one member of the Legislative Assembly from each major political party must sign a written request. Upon receipt of the written request, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement that describes the effects of a state measure on the racial and ethnic composition of:

(a) The criminal offender population, as defined in section 1 of this 2013 Act; or

(b) Recipients of human services, as defined in section 1 of this 2013 Act.

(2) The statement must be impartial, simple and understandable and must include the information described in section 1 (3) of this 2013 Act.

(3) If the commission has prepared a racial and ethnic impact statement for a state measure, not later than the 99th day before a special election held on the date of a primary election or any general election at which the state measure is to be submitted to the people, the commission shall file the statement with the Secretary of State.

(4) Not later than the 95th day before the election, the Secretary of State shall hold a hearing in Salem upon reasonable statewide notice to receive suggestions for changes to the statement or to receive other information. At the hearing, any person may submit suggested changes or other information orally or in writing. Written suggestions and any other information also may be submitted at any time before the hearing.

(5) The commission shall consider suggestions and any other information submitted under subsection (4) of this section and may file a revised statement with the Secretary of State not later than the 90th day before the election at which the measure is to be voted upon.

(6) The Secretary of State shall certify the statement not later than the 90th day before the election at which the measure is to be voted upon.

(7) All statements prepared under this section shall be made available to the public.

(8) A failure to prepare, file or certify a statement does not prevent inclusion of the measure in the voters' pamphlet.

SECTION 4. (1) A state agency that awards grants shall require that each grant application include a racial and ethnic impact statement that must contain 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 policies or programs having a disproportionate or unique impact on minority persons in this state; and

(c) Evidence of consultation with representatives of minority persons in cases in which a proposed policy or program has a disproportionate or unique impact on minority persons in this state.

(2) The Oregon Department of Administrative Services shall create and distribute a racial and ethnic impact statement form for state agencies and shall ensure that the statement is included in applications for grants awarded by state agencies.

(3) The racial and ethnic impact statement shall be used for informational purposes.

(4) The requirements of this section apply only to grants awarded to corporations or other legal entities other than natural persons.

(5) As used in this section:

(a) "Minority persons" includes individuals who are women, persons with disabilities, African-Americans, Hispanics, Asians or Pacific Islanders, American Indians and Alaskan Natives.

(b) "State agency" means the executive department as defined in ORS 174.112.

SECTION 5. Sections 1 to 4 of this 2013 Act are repealed on January 2, 2018.

SECTION 6. ORS 251.185 is amended to read:

251.185. (1) The Secretary of State shall have printed in the voters' pamphlet for a general election or any special election a copy of the title and text of each state measure to be submitted to the people at the election for which the pamphlet was prepared. The pamphlet must include the procedures for filing a complaint under ORS 260.345. Each measure shall be printed in the pamphlet with:

(a) The number and ballot title of the measure;

(b) The financial estimates and any statement prepared for the measure under ORS 250.125;

(c) The explanatory statement prepared for the measure;

(d) Arguments relating to the measure and filed with the Secretary of State;

(e) Any racial and ethnic impact statement prepared for the measure under section 3 of this 2013 Act; and

(f) Any statement submitted for the measure by a citizen panel under ORS 250.141.

(2) A county measure or measure of a metropolitan service district organized under ORS chapter 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet described in subsection (1) of this section if required under ORS 251.067.

SECTION 7. ORS 137.656 is amended to read:

137.656. (1) The purpose of the Oregon Criminal Justice Commission is to improve the effectiveness and efficiency of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning.

(2) The primary duty of the commission is to develop and maintain a state criminal justice policy and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses public safety, offender accountability, crime reduction and prevention and offender treatment and rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

(a) Capacity, utilization and type of state and local prison and jail facilities;

(b) Implementation of community corrections programs;

(c) Alternatives to the use of prison and jail facilities;

(d) Appropriate use of existing facilities and programs;

(e) Whether additional or different facilities and programs are necessary;

(f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices and sanctions in reducing future criminal conduct by juvenile and adult offenders;

(g) Methods of reducing the risk of future criminal conduct; and

(h) The effective utilization of local public safety coordinating councils.

(3) Other duties of the commission are:

(a) To conduct joint studies by agreement with other state agencies, boards or commissions on any matter within the jurisdiction of the commission.

(b) To provide Oregon criminal justice analytical and statistical information to federal agencies and serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing practices.

(c) To provide technical assistance and support to local public safety coordinating councils.

(d) To receive grant applications to start or expand drug court programs as defined in ORS 3.450, to make rules to govern the grant process and to award grant funds according to the rules.

(e) To prepare the racial and ethnic impact statements described in sections 1 and 3 of this 2013 Act.

(4) The commission shall establish by rule the information that must be submitted under ORS 137.010 (9) and the methods for submitting the information. A rule adopted under this subsection must be approved by the Chief Justice of the Supreme Court before it takes effect.

(5) The commission may:

(a) Apply for and receive gifts and grants from any public or private source.

(b) Award grants from funds appropriated by the Legislative Assembly to the commission or from funds otherwise available from any other source, for the purpose of carrying out the duties of the commission.

(c) Adopt rules to carry out the provisions of this subsection.

SECTION 8. ORS 251.185, as amended by section 6 of this 2013 Act, is amended to read:

251.185. (1) The Secretary of State shall have printed in the voters' pamphlet for a general election or any special election a copy of the title and text of each state measure to be submitted to the people at the election for which the pamphlet was prepared. The pamphlet must include the procedures for filing a complaint under ORS 260.345. Each measure shall be printed in the pamphlet with:

(a) The number and ballot title of the measure;

(b) The financial estimates and any statement prepared for the measure under ORS 250.125;

(c) The explanatory statement prepared for the measure;

(d) Arguments relating to the measure and filed with the Secretary of State; and

(e) Any racial and ethnic impact statement prepared for the measure under section 3 of this 2013 Act; and

(f) (e) Any statement submitted for the measure by a citizen panel under ORS 250.141.

(2) A county measure or measure of a metropolitan service district organized under ORS chapter 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet described in subsection (1) of this section if required under ORS 251.067.

SECTION 9. ORS 137.656, as amended by section 7 of this 2013 Act, is amended to read:

137.656. (1) The purpose of the Oregon Criminal Justice Commission is to improve the effectiveness and efficiency of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning.

(2) The primary duty of the commission is to develop and maintain a state criminal justice policy and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses public safety, offender accountability, crime reduction and prevention and offender treatment and rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

(a) Capacity, utilization and type of state and local prison and jail facilities;

(b) Implementation of community corrections programs;

(c) Alternatives to the use of prison and jail facilities;

(d) Appropriate use of existing facilities and programs;

(e) Whether additional or different facilities and programs are necessary;

(f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices and sanctions in reducing future criminal conduct by juvenile and adult offenders;

(g) Methods of reducing the risk of future criminal conduct; and

(h) The effective utilization of local public safety coordinating councils.

(3) Other duties of the commission are:

(a) To conduct joint studies by agreement with other state agencies, boards or commissions on any matter within the jurisdiction of the commission.

(b) To provide Oregon criminal justice analytical and statistical information to federal agencies and serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing practices.

(c) To provide technical assistance and support to local public safety coordinating councils.

(d) To receive grant applications to start or expand drug court programs as defined in ORS 3.450, to make rules to govern the grant process and to award grant funds according to the rules.

(e) To prepare the racial and ethnic impact statements described in sections 1 and 3 of this 2013 Act.]

(4) The commission shall establish by rule the information that must be submitted under ORS 137.010 (9) and the methods for submitting the information. A rule adopted under this subsection must be approved by the Chief Justice of the Supreme Court before it takes effect.

(5) The commission may:

(a) Apply for and receive gifts and grants from any public or private source.

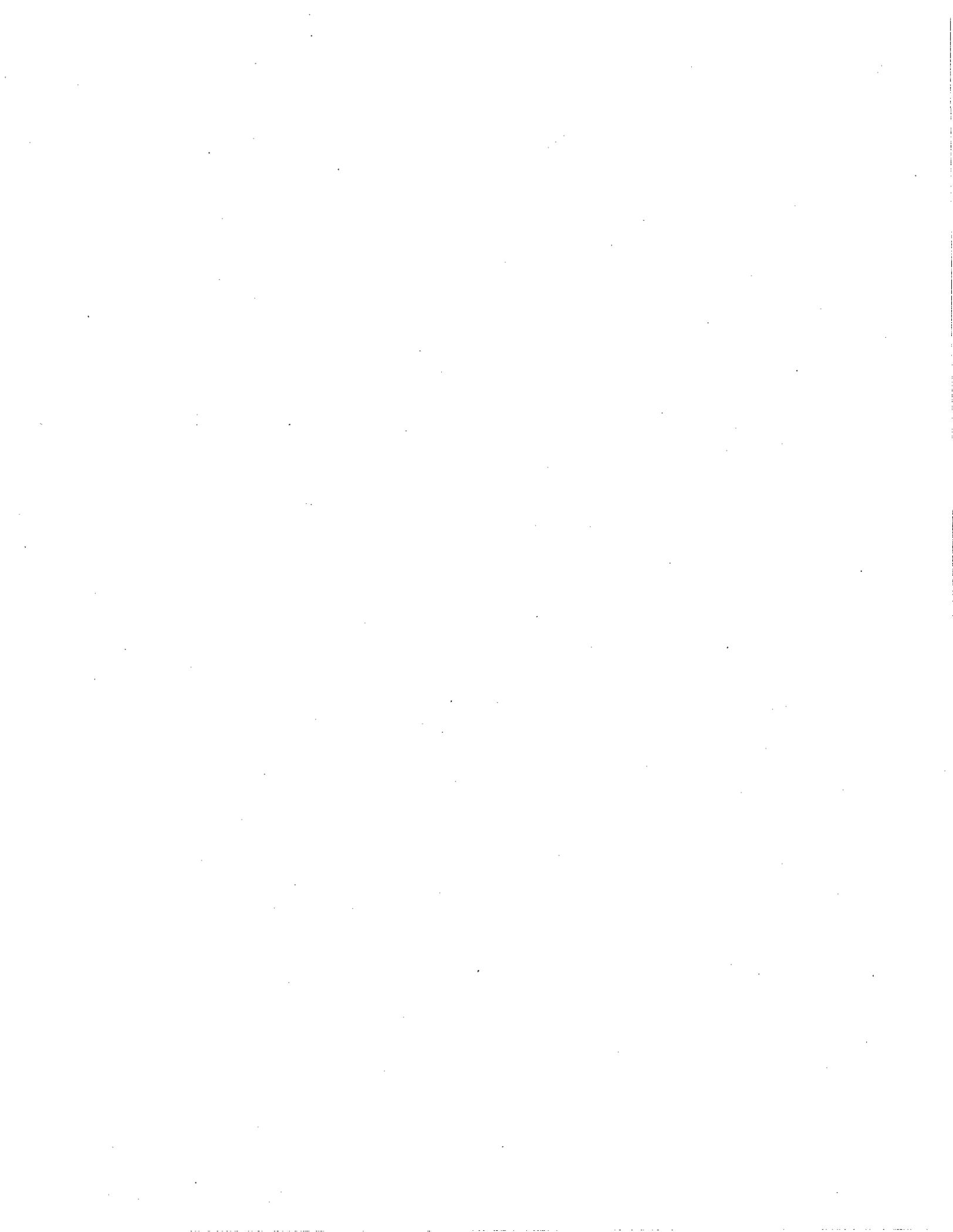
(b) Award grants from funds appropriated by the Legislative Assembly to the commission or from funds otherwise available from any other source, for the purpose of carrying out the duties of the commission.

(c) Adopt rules to carry out the provisions of this subsection.

SECTION 10. The amendments to ORS 137.656 and 251.185 by sections 8 and 9 of this 2013 Act become operative on January 2, 2018.

SECTION 11. Section 3 of this 2013 Act and the amendments to ORS 251.185 by section 6 of this 2013 Act apply to elections held after the first Tuesday after the first Monday in November 2014.

Approved by the Governor July 1, 2013
Filed in the office of Secretary of State July 1, 2013
Effective date January 1, 2014



Jen Lleras



Jen Lleras

Jen Lleras is a Trainer & Organizer at Western States Center. Jen joined the Center in April 2012. Jen attributes a great deal of her leadership and organizing skills to Western States Center.

Before joining Western States Center, Jen worked at Basic Rights Oregon as the Project Coordinator on collaboration with unions. This project, the first of its kind in the nation, worked to build community understanding and support among unions and the LGBT community and to increase leadership skills of LGBT union members.

Prior to BRO Jen was the Organizing Director at the Oregon Student Association, where she led campaigns to ensure students receive affordable and accessible college education. Jen graduated from the University of Oregon with double major in Ethnic Studies and Spanish.

Jen Lleras is training Beyond Diversity-Dismantling Racism.



FACING RACE

2018 LEGISLATIVE REPORT CARD
ON RACIAL EQUITY

OREGON

EXECUTIVE SUMMARY

FACING RACE: 2013 LEGISLATIVE REPORT CARD ON RACIAL EQUITY

EXAMINES 21 PIECES OF LEGISLATION introduced during the regular session that have the most direct impacts on communities of color in Oregon. Of these 21 pieces of legislation, 18 were passed into law. Grades were given to each member of the legislature based on their votes on those bills and their leadership record. This report also looks at ways in which the state budget impacts communities of color.

Facing Race addresses racial equity related to five major areas: civil rights and criminal justice, economic justice, education, health, and immigrant and refugee issues. This report also has a special section dedicated to considering the impacts of the state budget on communities of color. Bills featured in the report include:

CIVIL RIGHTS AND CRIMINAL JUSTICE

- **SB 123** Foster Care Bill of Rights
- **SB 463** Racial Impact Statements on Proposed Criminal Justice and Child Welfare Policies
- **HB 3194** Corrections Reform – Justice Reinvestment
- **SB 560** Racial Profiling (missed opportunity)
- **HB 3521** Voter Registration Modernization (missed opportunity)

ECONOMIC EQUITY

- **HB 3409** Natural Hair Care Act
- **HB 2977** Wage Theft in Construction
- **HB 3367** Earned Income Tax Credit Renewal
- **HB 2639** Section 8 Non-discrimination
- **SB 588** Foreclosure Prevention and Mediation
- **HB 2890** Inclusionary Zoning (missed opportunity)

EDUCATION EQUITY

- **HB 2192** School Discipline
- **HB 2787** Tuition Equity
- **SB 755** Minority Teachers Act

HEALTH EQUITY

- **HB 3407** Traditional Healthcare Workers Commission
- **HB 2611** Cultural Competency for Health Professionals
- **SB 420** Mammogram and Dense Breast Tissue Screening
- **HB 2134** Culturally Appropriate Data Collection Standards
- **HB 2136** Tobacco Master Settlement Agreement Funds

IMMIGRANT AND REFUGEE ISSUES

- **HB 2517** Driver License Restoration for COFA Pacific Islanders
- **SB 833** Safe Roads Act

2013 was a productive and successful legislative session. Most of the bills that communities of color and allies advocated for passed. This can be attributed to an increased presence at the Capitol by these groups as well as strategic coalitions and bipartisan support from legislators. Governor John Kitzhaber was also engaged and provided key leadership on important legislation. Each member of the Oregon House and Senate was given an individual grade based on both their votes and their lead sponsorship on these bills. Out of 30 senators, there were 14 A's, 2 B's, 3 C's and 11 Needs Improvements. Out of 60 Representatives, there were 28 A's, 8 B's, 3 C's and 21 Needs Improvements.

Overall, there was a lot of progress made toward passing bills that address racial disparities in Oregon. More positive progress toward addressing racial disparities will move the entire state forward. All of our communities share a linked fate, and in order to build a fair society with full prosperity and social harmony, lawmakers should consider the following recommendations:

- **BE EXPLICIT ABOUT ADDRESSING RACIAL EQUITY.** Persistent racial disparities exist in Oregon, and at the same time the demographics are changing and the state is becoming more racially diverse. In order to advance positive policy solutions that address these disparities, lawmakers need to be explicit in addressing racial equity while finding policy solutions. This report contains several examples of proactive racial equity policies that were passed during the 2013 legislative session.
- **IMPLEMENT RACIAL IMPACT STATEMENTS.** Racial Impact Statements estimate the disparate racial impacts of public policies and are a useful tool for legislators to take into account the real consequences that proposed legislation could have on communities of color. Legislation may appear to be race neutral, but that does not mean that its effects are race neutral. The Racial Impact Statement bill that passed this session (p. 8) is a great example of applying the tool in the area of criminal justice and child welfare policies, yet these impact statements can be applied in all areas of public policy.
- **DISAGGREGATE UNIFORM AND COMMUNITY-SPECIFIC DATA FOR ALL RACIAL AND ETHNIC GROUPS.** While some progress was made with the passage of HB 2134 in improving data collection in health and human services (p. 20), there are still clear data gaps in how state, county and local governments collect and report race and ethnicity. Many ethnic groups have very specific needs and experiences, and when we lump them into large diverse racial categories, the data governmental agencies collect can lead to misleading policy analysis and bad decision-making. In order to have a better understanding of the outcomes of all Oregonians, improved racial and ethnic data collection and disaggregation must be a part of how Oregon does business.
- **WORK WITH AFFECTED COMMUNITIES.** Organizations representing communities of color are working hard to increase their presence at the Capitol and their engagement with the legislative process. While they do not always have paid lobbyists, they do bring constituents to Salem. Lawmakers should consider bringing bills forward with support from communities that are directly affected.

INTRODUCTION

FACING RACE: 2013 OREGON LEGISLATIVE REPORT CARD ON RACIAL EQUITY IS THE SECOND MULTI-ISSUE ASSESSMENT

of the legislature's commitment to creating policies that expand opportunity and racial equity in our state.

While this report tells the story of policies that broaden our social well-being, budget decisions are also central to the progress and prosperity of our communities. Given this, a new feature of this report examines the equity impact of budget decisions on Oregonians and specifically Oregonians of color.

Policies that address economic, political, social and health disparities for racially marginalized groups are especially important in a state such as Oregon, which has a long history of racist policies contributing to significant racial disparities. The Oregon legislature has the vitally important duty to craft and pass policy that corrects racial injustices and creates an environment in which all Oregonians can thrive. This responsibility is ever more pressing as Oregon's population becomes more racially diverse.

Stark economic and racial disparities are rooted in complex systems and structures, and directly related to Oregon's history of institutional racism. That is, policies were created that held a positive impact for Whites while negatively impacting Oregonians of color and Native American tribes.

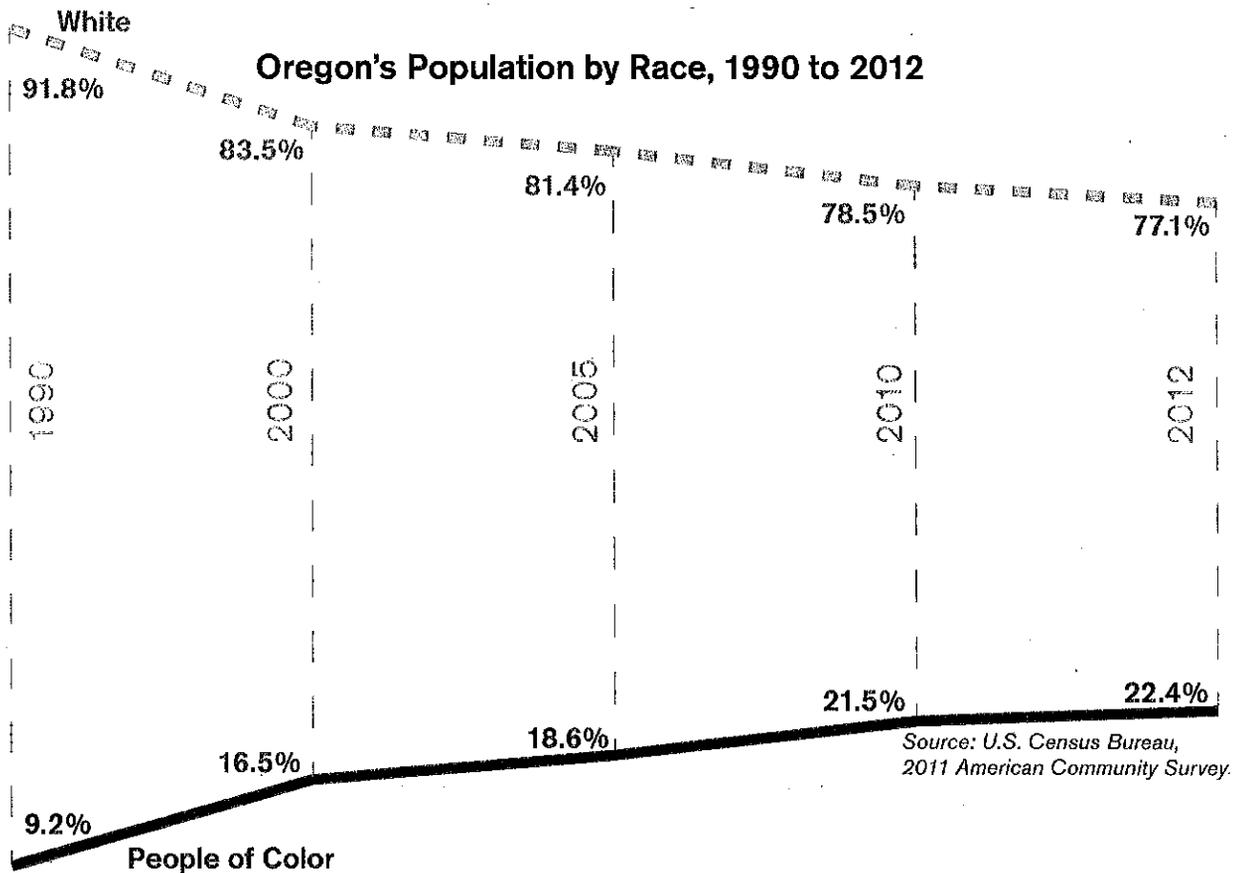
- In 1850, the U.S. Congress passed the Oregon Donation Land Act, a piece of legislation designed to promote White settlement in the Oregon Territory by expropriating Native American land and giving it to Whites for free, causing a population boom of White settlers of 300 percent.¹ The move to Oregon for many White settlers was motivated by a desire to create an all-White society free from the racial tensions brewing before the start of the American Civil War.² The first steps taken to create this all-White society involved bloody battles against Native American peoples and their eventual compulsory removal from their land.³
- Laws were specifically targeted at African Americans and designed to exclude them from the state. The Champoege territorial government of 1843 prohibited slavery and required that all Blacks leave the territory within three years.
- Since 1910, Latinos have been contracted for farm work. By 1970, 95 percent of farm workers in Oregon were from Mexico or of Mexican descent. These laborers have consistently experienced exploitation, low wages, unsafe working conditions, substandard housing and the threat of deportation.⁴
- During the 1860s, Chinese workers were contracted for mining and railroad construction, being paid significantly less than White workers. In 1888, 34 Chinese gold miners were massacred in Enterprise, Oregon. The three White men tried for the crime were acquitted by a legal system designed to protect the interests of Whites.
- In the midst of World War II, more than 4,500 Japanese Americans, two-thirds of whom had American citizenship status, were sent to internment camps. When they were released and allowed to return home, they were given few protections against looters and vandals, and many suffered significant property losses.⁵

Our history shapes our present. Although systemic discrimination may be more subtle now and even unintentional, communities of color are still being hurt by certain public policy decisions. The disparities that are present today are evidence of this:

- Whites are far less likely to face poverty than communities of color in Oregon. In 2012, the poverty rate for Whites was only 15 percent, but 30 percent for Latinos, 34 percent for Native Americans and Alaska Natives, 36 percent for Native Hawaiians and Pacific Islanders and 41 percent for African Americans.⁶
- As for public education, in Multnomah County, just 7 percent of White students do not graduate from high school compared to 30 percent of students of color.⁷
- In Oregon's placement of children in foster care, Native American youth are more than five times as likely to be placed into foster care; African American youth are four times as likely, and Pacific Islanders are twice as likely to white youth.⁸

When these disparities grow, this cuts into our state's overall health and well-being. But when the indicators of well-being reflect a more economically and racially equitable and inclusive society, everyone benefits because Oregonians have a shared fate.

Oregon's population is increasingly diverse—more multiracial, multicultural and multilingual. From 1990 to 2012, Oregonians of color have increased from just 9.2 percent of the state's population to 22.4 percent.



The changing population and stark disparities demand that we pay attention to how we are making decisions. The policy and budget decisions that we make today can either increase opportunity and improve outcomes across race, gender and class lines or worsen disparities. Addressing racial disparities does not have to seem like some puzzle or mystery to be solved. Solutions do exist. In fact, all of the legislation described in this report is part of the solution.

Facing Race: 2013 Oregon Legislative Report Card on Racial Equity is a tool that shines a light on the ways in which lawmakers made gains in promoting our health and well-being and where there are areas for improvement.

Terms and Terminology

Throughout the report, we use the terms **people of color and communities of color**. By this we mean communities that share the common experience of being targeted and oppressed by racism. We also use the term **immigrants and refugees**, and in this context we are referring to immigrants and refugees of color. We use the terms **Black, Latino, Asian Pacific Islander, Native American and White** throughout the report.

Where data is available for specific ethnic groups within broader racial categories, we have made an effort to utilize this data and cite it appropriately. In addition, we have extensively endnoted and cited sources so interested persons can look directly at the sources for any clarification needed about the data and terms used in specific citations and graphs.

LEVELS OF RACISM

| LEVEL | DESCRIPTION |
|---|--|
| Individual/ Internalized Racism  | Racial bias within individuals—one's beliefs, attitudes and prejudices about race. |
| Interpersonal Racism  | Racial bias between individuals—public expression of bigotry and hate. |
| Institutional Racism  | Racial bias within institutions such as schools and hospitals. Disparate outcomes reveal institutional racism, whether or not there is racist intent on the part of individuals within that institution. |
| Structural Racism  | Racial bias among institutions and across society. Structural racism is the cumulative effects of history, ideology, and culture and the result of institutions and policies that favor whites and disadvantage people of color. |



KEY FINDINGS

1. In our previous report on the 2011 legislative session, we included 23 pieces of proposed legislation and 10 bills that passed into law. This year we included 21 bills, 18 of which were passed into law. This is a marked improvement in passing laws that address racial disparities in Oregon.
2. Improvements in passing legislation can be attributed to lawmakers' willingness to work directly with impacted communities, the increased presence of organizations representing communities of color at the Capitol, strategic coalition work and strong bi-partisan support for key legislation.
3. Legislative champions for racial equity represent a range of regions, political ideologies and constituencies in our state. Supporters of racial equity legislation in Oregon include rural and urban districts, Democrats and Republicans. The most racially diverse areas in our state continue to be in some of our most rural counties – Malheur, Umatilla, Morrow, Jefferson, Marion and Hood River.
4. Despite the success of many priority pieces of racial equity legislation, there remains important work to do. There were three bills that were missed opportunities, which will be taken up in the 2015 session, while recently passed legislation can be strengthened and improved upon. There are many additional good policy ideas that need to be developed and implemented to address continued disparities for communities of color in health, education, economic opportunity and other areas.

What is Racial Equity?

Proactive racial equity policies seek to eliminate racial disparities and advance equitable outcomes for all communities. Policy that supports racial equity targets the institutional and structural barriers that lead to poor outcomes for communities of color. Race-neutral or color blind policies, whether intentional or not, can widen existing or cause new racial inequities.

The Oregon Racial Equity Report is a collaborative effort of the Racial Equity Report Working Group:

Asian Pacific American Network of Oregon (APANO)

Basic Rights Education Fund

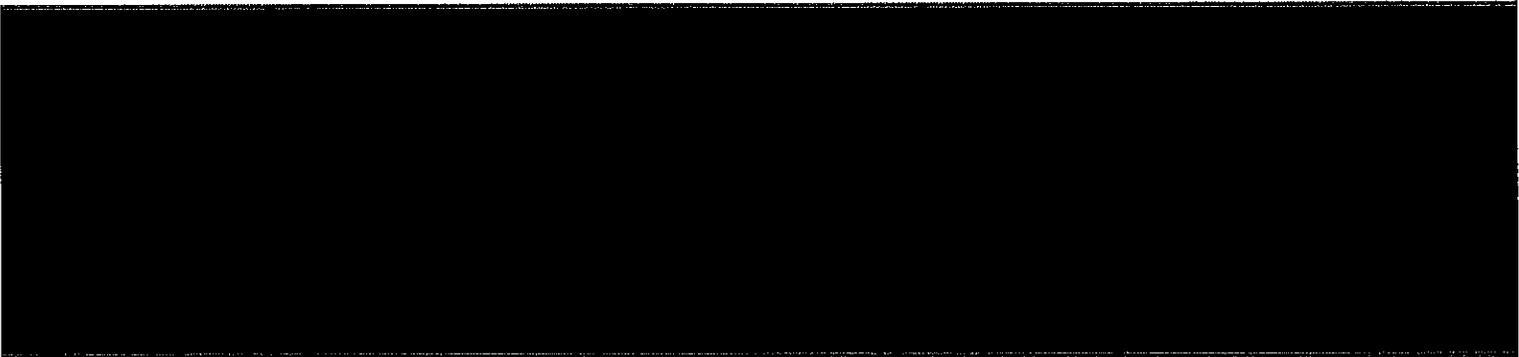
Causa Oregon

Center for Intercultural Organizing

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STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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SENTENCING GUIDELINES COMMISSION

TO: Those Interested in Addressing Racial and Ethnic Disproportionality in Washington's Criminal Justice System

DATE: November 14, 2014

RE: A Proposal for an Exploration of Factors Leading to Racial and Ethnic Disproportionality in Washington's Criminal Justice System

It is widely acknowledged that racial and ethnic disproportionality exists in Washington's criminal justice system. The facts are stark and essentially undisputed. Blacks and Hispanics comprise just over 12% of our state's population yet they represent 30% of our prison population. Why this disproportionality exists and what can be done about it is another matter. On these issues deep divisions exist among people of good will who acknowledge the underlying facts. As Marc Mauer, executive director of the Sentencing Project and one of our nation's most informed students of these issues puts it:

"These outcomes result from a complex set of factors, including socioeconomic disadvantages, involvement in criminal behavior, resource allocation in the criminal justice system, sentencing policies, limited diversionary options, and biased decision making among practitioners. We can debate the relative contribution of each of these factors, but there are few who would dispute that each plays at least some role."

Moving past the recognition of the fact of disproportionality, however, requires identifying how these factors interrelate and determining what can be done to reduce the impact of these factors. The fact that people of good will disagree as to the relative weight each of the factors plays has led to accusations and denials from all sides but, unfortunately, little progress toward the goal all share, reducing the disproportionality.

A recent study in Minnesota (Frase, What Explains Persistent Racial Disproportionation Minnesota's Prison and Jail Population, Crime and Justice 201 (2009)) offers promise as a model for an exploration of disproportionality in Washington. Minnesota is a state that is in many ways comparable to Washington; social and demographic characteristics are similar; both states have similar sentencing guideline systems and both states have collected data on their criminal justice systems for many years. The Minnesota study used existing data and while many gaps existed it was able to identify a number of explanations for why disproportionality existed in Minnesota. A similar study in Washington, using existing data, offers considerable promise for shedding light on what explains Washington's persistent racial and ethnic disproportionality. The study would move past documenting the facts that all agree on – that Washington's prison and jail populations are racially and ethnically disproportionate – to explore what leads to that fact.

The Minnesota study explored each stage of the criminal justice system including:

- Criminal behavior
- Reporting of crime
- Decisions to investigate and arrest
- Victim cooperation
- Prosecutorial screening and charging decisions
- Prosecutorial charge reviews and plea bargaining
- Available defense resource
- Criminal and sentencing laws
- Sentencing practices
- Post sentencing policies and practices

Complete data on each of these steps did not exist in Minnesota, but the data which was available was sufficient to permit significant analysis. Washington has long collected considerable information at the state level which would permit the same level of analysis as in Minnesota. The available data in Washington will inevitably have gaps which will preclude definitive analysis of all issues. But the analysis which was possible from the existing data shed considerable light on why Minnesota's disproportionality existed and identified areas of potential action which might reduce that disproportionality.

A similar study in Washington, using existing data would, in our judgment, offer considerable promise. It would provide the factual information necessary to move beyond the current arguments to constructive action to address the problem of disproportionality we all agree exists. While precise answers to the question of why disproportionality continues to exist are unlikely to emerge, Minnesota's experience teaches that considerable progress can be made in our understanding.

It is essential that such a study be conducted by researchers of unquestioned ability and integrity. The painful truths which the study will likely reveal will provoke, initially, defensive reactions which, experience teaches, will focus on the messenger. Our Institute for Public Policy has, over the years, justly earned a reputation for quality and integrity in its exploration of deeply contentious issues of public policy. The Institute has no institutional involvement in the issues and can bring the necessary detachment which has marked their work over the years. The Institute has examined the Minnesota study and estimates that it can be replicated in Washington for a cost of \$103,000 and could be completed within 8 months.

In our judgment this would be a wise expenditure of public resources.



SENATE BILL 6257

State of Washington 63rd Legislature 2014 Regular Session

By Senators Darneille, Hasegawa, McCoy, Frockt, Chase, and Conway

Read first time 01/20/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to sentencing information concerning racial
2 disproportionality; and amending RCW 43.88C.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.88C.040 and 2011 1st sp.s. c 40 s 28 are each
5 amended to read as follows:

6 (1) The caseload forecast council shall develop and maintain a
7 computerized adult and juvenile sentencing information system
8 consisting of offender, offense, history, and sentence information
9 entered from the judgment and sentence forms for all adult felons.

10 (2) As part of its duties in maintaining the sentencing information
11 system, the caseload forecast council shall:

12 (a) On an annual basis, publish a statistical summary of adult
13 felony sentencing and juvenile dispositions;

14 (b) On an annual basis, publish a summary of racial
15 disproportionality in adult felony sentencing and juvenile
16 dispositions;

17 (c) Publish and maintain an adult felony sentencing manual; and

18 ~~((e))~~ (d) Publish and maintain a juvenile sentencing manual.

1 (3) The sentencing manuals are intended only as a guide to assist
2 practitioners in determining appropriate sentencing ranges. The
3 manuals are not a substitute for the actual statutes, which list the
4 sentencing ranges, or for any other information contained within this
5 chapter. The caseload forecast council is not liable for errors or
6 omissions in the manual, for sentences that may be inappropriately
7 calculated as a result of a practitioner's or court's reliance on the
8 manual, or for any other written or verbal information provided by the
9 caseload forecast council or its staff related to adult or juvenile
10 sentencing.

11 (4) In publishing materials required by this section, the caseload
12 forecast council shall make the materials available on its web site.
13 The caseload forecast council may charge a reasonable cost for
14 producing and distributing hard copies of any materials.

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SENTENCING GUIDELINES COMMISSION

Racial and Ethnic Impact Statement Language

RCW 43.88C.050 is amended to read:

Research staff:

- 1) The Caseload Forecast Council shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties.
- 2) The Caseload Forecast Council may request from the Administrative Office of the Courts, the Department of Social and Health Services, the Health Care Authority, the Department of Corrections, the Superintendent of Public Instruction, and other agencies managing caseloads forecasted by the Caseload Forecast Council, such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without charge to the Caseload Forecast Council.
- 3) The Caseload Forecast Council may request from the Administrative Office of the Courts, the Department of Social Health Services, the Department of Corrections, the Superintendent of Public Instruction, and other agencies maintaining data on sentenced adult or juvenile offenders, such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without charge to the Caseload Forecast Council.
- 4) The Caseload Forecast Council is considered a criminal justice agency within the meaning of RCW 10.97.030(5).

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Racial and Ethnic Impact Statement Language

New Section. RCW 43.88A. ____ Racial and Ethnic Impact Statements:

- 1) The Legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected impact of bills and resolutions on the racial and ethnic composition of the criminal and juvenile justice systems. For the purposes of this section, the juvenile justice system includes all matters based in juvenile court as defined in RCW 13.04.030 and all juvenile court matters related to compulsory school attendance as described in Chapter 28A.225 RCW.
- 2) The Caseload Forecast Council, in cooperation with appropriate legislative committees and legislative staff, the Office of Financial Management, the Department of Corrections, the Department of Social and Health Services, the Administrative Office of the Courts, the Minority and Justice Commission, the Institute for Public Policy, and the Sentencing Guidelines Commission shall establish a procedure for the provision of racial and ethnic impact statements on the effect that legislative bills and resolutions will have on the racial and ethnic composition of the criminal and juvenile justice systems. The Caseload Forecast Council and the Office of Financial Management shall coordinate the development of racial and ethnic impact statements with the development of fiscal impact statements under Chapters 43.88A and 43.132 RCW.
- 3) The Caseload Forecast Council shall provide a racial and ethnic impact statement on any legislative proposal at the request of any legislator. The impact statement shall be provided to the requesting legislator and distributed with the fiscal impact statement when the proposed legislation is introduced in either house.
- 4) When a racial and ethnic impact statement is prepared and approved by the Caseload Forecast Council copies of the racial and ethnic impact statement shall be distributed with the fiscal impact statement.
- 5) This section shall not prevent either house of the legislature from acting on any bill before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the Senate and House of Representatives, nor shall the lack of any judicial impact note as provided in this section or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the Legislature.