

Racial Impact Statement Policy

From the Minnesota Sentencing Guidelines Commission

Version: 2.0

Effective Date: TBD

Approval: MSGC meeting minutes on file

Policy Statement

The staff of the Minnesota Sentencing Guidelines Commission (the “agency”) prepares racial impact statements for significant crime bills when required by this policy. (Throughout this policy, “race” should be understood to mean ethnicity whenever ethnicity is documented in available data.)

Step 1: Significance Threshold

Whenever a fiscal note is assigned to it, the agency will, in the course of preparing the fiscal note, estimate whether the bill, if enacted, would meet any of the following four threshold criteria:

- If the policy changes in the bill tending to increase the number of people convicted of felonies each year (“new felony population”) would increase the felony population by 50 or more felons annually.
- If the policy changes in the bill tending to decrease the number of people convicted of felonies each year (“reduced felony population”) would decrease the felony population by 50 or more felons annually.
- If the policy changes in the bill tending to increase prison beds would increase prison beds by 10 or more. (“Prison beds” is a calculation of the annual increased prison demand as a result of a policy change, taking into account the duration of the sentences to be executed. “Prison beds” assumes that each offender serves only the pronounced term of imprisonment, and does not account for jail credit, future probation revocations, accountability time, or supervised release revocations. For purposes of this policy, the term applies to the greatest annual effect on the prison population, even if that effect is not projected to occur for a number of years.)
- If the policy changes in the bill tending to decrease prison beds would decrease prison beds by 10 or more.

This estimate will consider all policies in the bill tending to have the effect in question, disregarding any offsetting effect. For example, if a policy, or several policies combined, increase(s) the new felony population by more than 50, the first threshold criterion has been met, even if other policies in the bill tend to decrease the number of felons by an offsetting amount.

Step 2: Racial Impact Screening

If a bill meets any of the four significance threshold criteria, the agency will conduct racial impact screening on the bill. **Racial impact screening requires the agency to attempt to make racial composition estimates with respect to targeted groups, as described below.**

Racial Composition Estimate. As part of the screening process, the agency will attempt to estimate the racial composition of:

- The new felony population that would result from all policies tending to increase the felony population, if any;
- The reduced felony population that would result from all policies tending to decrease the felony population, if any;
- The population occupying the prison beds that would be filled as a result of all policies tending to increase prison beds, if any; and
- The population vacating the prison beds that would be emptied as a result of all policies tending to decrease prison beds, if any.

No racial impact analysis will be conducted unless a sound racial composition estimate is possible, which is generally the case only when a proposed crime modifies, is enhanced by, or appears similar to an existing crime for which the agency has offender race data. When conducting the racial composition estimate—as when evaluating the threshold criteria—any offsetting policies in the bill will be evaluated independently, without regard to the other. For example, if some of the bill’s policies would tend to increase prison beds, and other policies would tend to decrease prison beds, the racial composition of the population of those who would occupy the increased prison beds will be estimated separately from the racial composition of the population of those who would vacate the decreased prison beds.

Targeted Groups. Racial impact screening will target those racial groups in which a state of disparity currently exists. With respect to changes in the felony population, a targeted group is a racial group whose representation within the population of Minnesota felony offenders sentenced in the most recent year for which the agency has complete data (“current felony population”) exceeds its representation within Minnesota’s current adult census population (“state population”). With respect to changes in prison beds, a targeted group is a racial group whose representation within the current state prison population (as reported by the Department of Corrections as of January 1 of the year of the screening) exceeds its representation within the state population.

If the agency is able to conduct a sound racial composition estimate with respect to one or more of the targeted groups, the agency will prepare a racial impact statement.

Step 3A: No Racial Impact Statement

If a racial impact screening does not result in a racial impact statement, the results of the screening will be internally documented and made available for public review.

Step 3B: Racial Impact Statement

The racial impact statement will include a discussion of the racial compositions of the state population, the current felony population, the current prison population, and the targeted group(s) whose racial composition estimate required the racial impact statement. With respect to each of these targeted groups, the racial impact statement will include one or two statements (i.e., with respect to felony population, prison population, or both) similar to either of the following:

Table 1: Sample Racial Impact Language

Population and Degree of Disparity Changing in the Same Direction	Population and Degree of Disparity Changing in Opposite Directions
<p>MSGC staff estimates that, if enacted, [the bill] would [increase/decrease] the population of [felons/prisoners] who are [targeted group name] by [number] annually, and to [increase/decrease] the disparity that presently exists between that group’s representation in Minnesota’s [felony/prison] population and the group’s representation in Minnesota’s adult census population. Specifically, the [targeted group name] population comprises [percentage] of Minnesota’s adult census population; comprises [percentage] of Minnesota’s [felony/prison] population; and is estimated to comprise [percentage] of the [new] [felony/prison] population that would [result from/be avoided by] the enactment of this bill.</p>	<p>MSGC staff estimates that, if enacted, [the bill] would [increase/decrease] the population of [felons/prisoners] who are [targeted group name] by [number] annually. Although the [new] [felony/prison] population that would [result from/be avoided by] this bill would have a higher [targeted group name] representation than that group’s representation in Minnesota’s adult census population, that [felony/prison] population would have a lower [targeted group name] representation than that group’s representation in Minnesota’s current [felony/prison] population. Specifically, the [targeted group name] population comprises [percentage] of Minnesota’s adult census population; comprises [percentage] of Minnesota’s [felony/prison] population; and is estimated to comprise [percentage] of the [new] [felony/prison] population that would [result from/be avoided by] the enactment of this bill.</p>

The statement will also discuss other pertinent matters, including the identification of the specific policies within the bill with racial impact, to the extent those policies can be readily identified. The agency will complete the racial impact statement no later than one week after its deadline to complete the fiscal note. It will then forward the completed racial impact statement to the chairs and ranking minority members of the House and Senate committees with jurisdiction over criminal justice policy. If the racial impact statement becomes moot before it is completed—e.g., if the bill is substantially amended or loses any chance of future passage—the racial impact statement need not be completed.

Reason for the policy

This policy is intended to allow legislators to evaluate the impact of significant crime bills on existing racial disparities within Minnesota’s felony and prison populations. This policy is established in furtherance of the agency’s execution of its statutory responsibilities under Minn. Stat. § 244.09, subd. 6.

Roles & Responsibilities

A

The agency research staff responsible for assisting in the preparation of fiscal notes is also responsible for identifying which crime bills meet this policy’s significance criteria, and for preparing racial impact statements within the time period described by this policy. The agency’s executive director is responsible for review, approval, and dissemination of racial impact statements in accordance with this policy.

—OR—

B

The agency research staff responsible for assisting in the preparation of fiscal notes is also responsible for identifying which crime bills meet this policy’s significance criteria, and for preparing racial impact statements within the time period described by this policy. The agency’s executive director [or designee](#) is responsible for review, approval, and dissemination of racial impact statements in accordance with this policy. [Such racial impact statements are subject to timely review by the Chair for compliance with this policy, with disputes between staff and the Chair to be resolved by the entire Commission.](#)

—OR—

C

The agency research staff responsible for assisting in the preparation of fiscal notes is also responsible for identifying which crime bills meet this policy’s significance criteria, and for preparing racial impact statements within the time period described by this policy. The agency’s executive director [or designee](#) is responsible for review, approval, and dissemination of racial impact statements in accordance with this policy. [The Commission and its Chair are responsible to oversee the application of this policy by reviewing, as they deem necessary, the racial impact statements produced in accordance with this policy, and to amend this policy as appropriate.](#)

Applicability

This policy applies to the staff of the Minnesota Sentencing Guidelines Commission.

Related Information

This policy is intended to govern the internal management of this agency only, and to address procedures for sharing data with the Legislature. It is not intended to affect the rights of or procedures available to the public. Pursuant to Minn. Stat. § 14.03(a), therefore, this policy is not a “rule.”

History

Version	Description	Date
1.0	Racial Impact Statement Policy	3/12/2015
1.1	Racial Impact Statement Policy (Presented to MSGC by staff)	4/9/2015
2.0	Racial Impact Statement Policy (Approved by MSGC)	TBD

Contact

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