

November 3, 2020 General Election

Initiative Petition #44

Estimate of Racial/Ethnic Impact:

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.

Criminal Justice System Changes Examined by Race/Ethnicity

The initiative changes several criminal sentencing laws regulating the possession of controlled substances (PCS). Relevant to the creation of the data estimates reported below, IP 44 would change PCS convictions to criminal violations, except where an individual possesses a substantial quantity of drugs, which would be a misdemeanor, or is convicted of a commercial drug offense, which would be a felony.

A conviction for simple possession of controlled substances results in either probation or a short term sentence in a local jail in Oregon. The CJC examined the type of sentence individuals received for PCS in 2019 (probation versus jail) as well as sentence lengths by

	Convictions in 2019 for PCS				
Race/Ethnicity	Misd.	Felony	Total	Pct.	
Asian	16	19	35	0.9%	
Black	120	69	189	4.7%	
Hispanic	238	198	436	10.7%	
Native American	27	25	52	1.3%	
Unknown	5	4	9	0.2%	
White	1,733	1,603	3,336	82.2%	
Total	2,139	1,918	4,057	100.0%	

race/ethnicity and found few differences. The primary source of racial/ethnic disparities is in the rate at which individuals of different races/ethnicities were convicted of PCS. Currently, Black and Native American Oregonians are overrepresented compared to their Census populations.

CJC estimates that if IP 44 were to pass, a substantial reduction in the number of felony and misdemeanor convictions for PCS would follow. The total number of convictions for PCS would fall from 4,057 to 378, a nearly 91% reduction. This reduction would also be

	Estimated Convictions for PCS if IP 44 were to Pass				
Race/Ethnicity	Misd.	Felony	Total	% Chg	
Asian	5	1	6	-82.9%	
Black	9	3	12	-93.7%	
Hispanic	40	19	59	-86.5%	
Native American	1	2	3	-94.2%	
Unknown	2	0	2	-77.8%	
White	219	77	296	-91.1%	
Total	276	102	378	-90.7%	

substantial for all racial groups, ranging from 82.9% for Asian Oregonians to approximately 94% for Native American and Black Oregonians. This means that 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 academic research suggests this drop in convictions will

result in fewer collateral consequences stemming from criminal justice system involvement, which include difficulties in finding employment, loss of access to student loans for education, difficulties in obtaining housing, restrictions on professional licensing, and others.

The changes proposed by IP 44 would also lead to a reduction in racial disparities for PCS convictions at both the misdemeanor and felony levels. Using a disparity metric called the Raw Differential Representation (RDR), CJC estimates that racial disparities for misdemeanor and felony PCS convictions will be narrowed substantially if IP 44 passes.

The CJC also estimates that arrests for PCS would fall substantially. Using the estimated reduction in convictions as a guide, CJC estimates that PCS arrests would fall from 6,726 to 615. Currently, Black Oregonians are substantially overrepresented in PCS arrests compared to white Oregonians. Should IP 44 pass, it is estimated that this disparity would fall by nearly 95% according to the RDR.

Other disparities can exist at different stages of the criminal justice process, including inequities in police stops, jail bookings, bail, pretrial detention, prosecutorial decisions, and others. The CJC lacks sufficient or appropriate data in each of these areas and therefore cannot provide estimates for these other stages. Similarly, while the CJC is required by statute to include an estimate of the racial/ethnic makeup of crime victims, data concerning victims of individuals convicted of drug possession are not available.