

DRUG POLICY ALLIANCE

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The War on Drugs or The New Jim Crow?

Although whites use drugs at the same rate as African Americans according to public health data, African Americans make up almost half of those arrested for drug offenses and more than half of those convicted of drug offenses causing critics to call the war on drugs the "New Jim Crow." Between 1982 and 1996, drug law violation sentences got longer and the African American prison population doubled. Today, according to the American Civil Liberties Union, 1 in 3 black men will have contact with the criminal justice system and approximately 1.4 million black men – 13% of all adult African American males – are disfranchised because of felony drug convictions and 1 in 14 black children has a parent in prison.

Marijuana

Studies have shown that African Americans and Hispanics are significantly more likely than whites to be arrested for possession and sales of marijuana, targeted for arrest by the police, and to receive a conviction and criminal record, despite the fact that the majority of regular marijuana users are non-Hispanic whites. Cannabis is the most widely used illicit substance, with 29 million Americans using it at least once a year. Though 74% of regular marijuana users are non-Hispanic whites and 14% are black, African Americans make up 30% of all marijuana arrests.

Mandatory Minimum Sentencing & Crack/Powder Sentencing Disparity

Mandatory minimum sentencing strips judicial discretion and imposes unduly long prison sentences on minor offenders, violating common sense and fundamental notions of justice and morality. The most egregious example of mandatory minimum sentencing is the sentencing disparity between crack cocaine and powder cocaine drug law violations. According a study published in the Journal of American Medical Association, crack and powder cocaine are pharmacologically the same, yet they are treated very differently within the walls of our justice system. Current federal policy generates a 100 to 1 penalty ratio for crack-related offenses. For instance, distribution of only 5 grams of crack cocaine (about a thimble full) yields a 5 year mandatory minimum sentence. It takes 500 grams of powder cocaine, however, to trigger the same sentence. Crack cocaine is also the only drug for which the first offense of simple possession can trigger a 5 year mandatory minimum sentence. [Simple possession of any quantity of any other substance by a first time offender – including powder cocaine – is a misdemeanor offense punishable by a maximum of one year in prison.] In 2006, blacks constituted 82% of those sentenced under federal crack cocaine laws while whites constituted only 8.8% despite the fact that more than 66% of people who use crack cocaine are white. In addition, in 2005 racial minorities comprised 85% of those receiving mandatory minimum sentences for powder cocaine. The U.S. Sentencing Commission (USSC) has found that, “sentences appear to be harsher and more severe for racial minorities than others as a result of this law. The current penalty structure results in a perception of unfairness and inconsistency.”

Drug Law Enforcement

Today, partly because drug law enforcement resources have been concentrated in low income, predominantly minority urban areas, a strong racial disparity is prevalent in drug arrests and convictions. American citizens, largely African Americans, are in danger from those who should protect them. Further, The DEA and other law enforcement

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agencies are alleged to have initiated and encouraged racial profiling in the war on drugs. A number of factors contribute to drug law enforcement scandals such as the militarization of domestic law enforcement, heightened tactics, and the inappropriate use of informants. In Tulia, TX, dozens of African American residents were sentenced to decades in prison based solely on the uncorroborated testimony of one undercover white officer. Dozens of Latino/Hispanic men were imprisoned or deported because of an undercover police operation that involved planting ground up sheet-rock on them and claiming it was cocaine, in Dallas, TX. And, a no-knock drug raid “gone bad,” in Atlanta, GA, ended in the shooting death of an 92-year-old African American woman, Kathryn Johnston.

HIV/AIDS

In the 50 states and the District of Columbia, an estimated 14,216 black men were diagnosed with AIDS in 2005, compared to 10,852 white men, 6,558 Hispanics, 444 Asian/Pacific Islanders and 152 Native Americans. This means that black men made up 44% of AIDS diagnoses in men during 2005. According to the Centers for Disease Control and Prevention, 31% of African American women infected with HIV and 28% of African American men have contracted the virus through intravenous drug use.

Syringe Access: Despite the proven success of needle exchange programs in reducing the spread of HIV, AIDS, and Hepatitis C, most states do not allow them to operate legally. For two decades, a patchwork of federal laws and appropriations riders has barred state and local governments, and the District of Columbia, from using their share of federal prevention money to fund syringe exchange programs that reduce the transmission of HIV/AIDS, hepatitis C. Injecting drugs in Washington, DC is the second most common means of contracting HIV among men - and the most common form among women. Nearly 1 in 20 District of Columbia residents has HIV and 1 in 50 has AIDS.

Prison Conditions: Jail and prison conditions exacerbate the spread of HIV/AIDS in the following ways: lack of availability or limited availability of condoms, lack of comprehensive health care, inappropriate responses to sexual violence, and limited or non-existent testing opportunities over long periods of time.

Women of Color

According to the Institute of Women and Criminal Justice, black women are the fastest growing segment of the prison population. In just over 22 years, the incarceration rate for African American women has increased 800%, and they are three times more likely to be sentenced than in 1986. Now, African American and Latina women make up more than half of the female prison population in the United States. Despite similar or equal rates of illegal drug use during pregnancy, African American women are ten times more likely to be reported to child welfare agencies for prenatal drug use compared to white women.