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## The War Against Black Males and The Law

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THE FLORIDA STATE UNIVERSITY  
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THE WAR AGAINST BLACK MALES AND THE LAW

By

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### **Abstract**

Thomas Jefferson once said, “we hold these truths to be self-evident that all men are created equal”. Shortly after this statement America soon discovered that “all men” pertained to the average white male. After years of developments, the U.S. begin to slowly accept minorities as equals in society. However, research displays that there is still a racial disparity between White and Black men. This paper will observe the racial imbalance in society by closely examining the data collected of those individuals in the U.S prison system. It will also illustrate how drug laws play a major role in the incarceration of Black men. Finally, this paper will focus on how improving drug laws to be more equal could lessen the racial imbalance in the U.S. prison system.

*Keywords:* Incarceration, Cocaine, War on drugs

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## **Introduction**

Recently there has been a growing concern among scholars and practitioners about the overrepresentation of minority groups in the United States (U.S.) criminal justice system. For instance, 33 percent of prisoners in the U.S. are Black, even though Black people only make up 12 percent of the U.S. population (Gramlich, 2019). From this finding, researchers project that one in every four Black males will spend some duration in prison in their lifetime (Guerino, Harrison, & Sabol, 2012; U.S. Census Bureau, 2011). This discovery has led criminologists to wonder and develop numerous theories to explain why and what is causing this phenomenon.

Researchers developed and applied theories like the general strain theory, and the differential opportunity theory to explain why minority groups such as Black males are demonstrated to make up a significant ratio of individuals in the criminal justice system. After, applying these theories to explain this phenomenon researchers found that racial biases are interwoven in drug laws which results in the systematic disadvantage of Black people. As a consequence, the differential opportunity theory by race also contributing to problematic racial practices, such as over-policing of the Black community.

### *The Topic of this Study: Racial Bias in the Criminal Justice System*

Some scholars believe that the massive representation of minorities in the criminal justice system is due to the creation of laws made with the intent of displaying systemic racism. For example, Balko (2020) states that the Jim Crow Era provided a foundation for which our current criminal justice system has become embedded with systemic racism. The Jim Crow Era was a time in the south when laws were introduced to foster segregation. The creation of laws established at this magnitude promotes racial disparity and helps preserve racial order by oppressing Black people. These laws also result in the oppression of Black people because the

U.S. criminal justice system focuses more on the use of punishments to deter criminal activity instead of rehabilitation methods. Some scholars believe that the creation of laws like the U.S. drug laws are becoming the new Jim Crow laws of today's society (Balko, 2020). Especially, since these laws are contributing to the mass incarceration of Black people. This presents the idea that these laws are created with the intent of punishing Black people, rather than helping them. This idea has caused many individuals to be opposed to the idea that the Jim Crow era truly ended.

In 2020, researchers conducted a quasi-experiment using data from the Vera Institute of Justice and the U.S. Census Bureau to examine the impact of reforms on incarceration rates and racial disparities from 2000–2015. The study examined the Community Corrections Performance Incentives Act of 2009 (SB 678) and the SB 18 Act. These are two reforms enforced in California during the set timeframe researchers wanted to study. The SB 678 reform focused on improving California's probation system, while SB 18, granted non-revocable parole for offenders with minor offenses. This would eliminate parole violations for minor offense offenders (Gottlieb et. al., 2020). Researchers then compared the incarceration rates in California to other states that did not enforce these reforms.

Results from the study illustrated that the changes California made in its laws widened the Black-White and Latinx-White incarceration imbalance (Gottlieb et. al., 2020). This finding is significant because it supports the claims made by Balko that the foundation in which policies are created, has a vast impact on the racial disparities within incarceration trends. Another study was performed in 2009, to also display this connection.

In 2009, Researchers examined whether dismantling old reforms would decrease racial disparities in the prison system. Researchers examined this by eradicating, New York State's

Rockefeller Drug Laws. These laws systematically categorize illegal drugs by different offenses and penalties. The law focused on establishing a mandated maximum of life imprisonment for committing a class A felony (Mancuso, 2010). In 2009, policy makers removed the law and increased drug treatment to investigate the effect the law has on the incarceration rates of Black people.

The study found that the removal of the mandatory sentences and expanding treatment options reduced rates of re-arrest and lowered racial inequities in jail terms (Hinton et. al., 2018). This is significant because it displays that these drug laws do consequently affect incarceration rates. This also displays the importance of re-examining these laws because it could help contribute to decreasing the number of Black people represented in the criminal justice system. Even though many minority groups are currently disproportionately represented in the criminal justice system, it is vital to focus on the White-Black disparity for multiple reasons.

One of the reasons to focus on this disparity is because this disparity is the greatest among all races, Black people also represent the largest minority group in the U.S. prison system. Studies suggest that Black people are five times as likely to be imprisoned than White people (Rezal, 2021). Secondly, we should focus on these two races because racial discrimination against Black people has played an essential historical role in American law policies like the “Jim Crow Law” and continues to do so. Perea (1997) explains that focusing on the differences between Black and White people rather than other minority groups is important because placing these the two races as the focal point of research helps with the understanding of different racial groups in society.

To address this concern of racial bias, this paper will examine and connect U.S. drug laws with the high representation of Black males in the criminal justice system. It is significant to



focus on drug laws and their connection to incarceration rates because it offers a possible solution to decreasing the incarceration rates among Black males. The following section will examine the history of systemic racism against Black people as a basis for understanding the modern developments in drug laws today.

### *The History of the Black Race*

The Black race has endured a long line of historic racism in the U.S. ranging from slavery, segregation, and unequal rights. The U.S. government developed many different policies, like the 13th amendment, to adopt Black people into society. However, as pointed out by filmmaker (Duvernay et. Al., 2016) of "The 13th Amendment", this constitutional addition did not extend its rights to convicted criminals. According to the Thirteenth Amendment, "Neither slavery nor involuntary servitude, except as punishment for crime where of the party shall have been duly convicted, shall exist within the United States... (U.S. CONST. amend. XIII)." It is hypothesized this loophole has been used to shift systems of oppression to the criminalizing and imprisonment of Black male citizens. To prevent the adoption of Black people into society, the government legalized what is now known as "Jim Crow" laws to uphold segregation between the White and Black people.

Although overt racial discrimination was prohibited by the U.S. Constitution, every confederate state moved to deny Black people the ability to vote by enacting discriminatory voting laws (Urofsky, 2021). The laws associated with the Jim Crow era heavily criminalized many Black people because these laws made basic human rights illegal. Under the Jim Crow statutes, Florida created laws that banned Black people from going to school with White people. The Jim Crow laws also required Black people to pass difficult literacy test in order to vote. However, even after passing these test Black people were still denied this liberty.

These laws provided law enforcement the jurisdiction to arrest anyone that challenged them. By these laws, Black people were violently detained, then leased out to work on private farms after being imprisoned and aggressively arrested (Wood, et. al., 2016). These laws gave society the authority to criminalize anyone that dared to go against this social norm. For example, historical figures like Rosa Parks, Malcolm X, and Martin Luther King Jr., were all presented as criminals in their society because they decided to fight against this unequal treatment. Also, the "criminal acts" demonstrated by these individuals were performed to protest for their birth-given right of equality, which was being taken from them by society. For instance, Rosa Parks challenged the Jim Crow laws that required her to give up her seat to a White person on a state bus in Alabama.

Another well-known situation that affected the Black community during this era is the "*Plessy v. Ferguson*" case. This case was filed due to the 1892 incident which included Homer Plessy's refusal to sit in the train car for Black people. Plessy challenged this obscene law and decided to file an official case that traveled all the way to the U.S. Supreme Court. Burson (1986) emphasizes the importance of this case because the Supreme Court ruling upheld the "separate but equal" clause. However, this clause was illustrated as unsustainable for the Black community because many of the facilities available to them were not in the best condition compared to the items specifically for "White's-only" use.

This among other consequential events, spiked anger among Black people and supporters of the Black community resulting in court cases, protests, and boycotts. These events with many other incidents are described in history as the beginning of the Civil Rights movement because lawsuits like "*Brown v. Board of Education*" and "*Plessy V. Ferguson*" filed in response to the Jim Crow laws resulted in the U.S Supreme Court ruling that these laws were indeed

unconstitutional. As a reaction to the civil rights movement, policymakers moved to abolish such laws in hopes of promoting a more equal society.

In the 1970s there was a dramatic spike in crime rates across the nation. For instance, between 1960 and 1970 crime rates increased by 126 percent (Eisen, 2015). This increase in crime caused a national panic which put more pressure on politicians to enact new laws regarding the possession, distribution and use of drugs. Shoemith (2010) emphasizes that during the 1970s and 1980s drug-related crimes caused a considerable increase in crime rates. During this time many believe that drugs were the sole contributor to the advancement of crime. Even though, the government already had laws against drugs, the panic of society caused the government to develop a stricter approach to drug use. However, scholars like Boyd (2001) explains that the creation of drug laws like the crack and powdered cocaine drug law, ushered in a "New Jim Crow" era. Many share this view because the drug laws are depicted as detrimental to Black people by increasing their presence in the U.S. prison system.

#### *Importance of My Research Topic*

The examination of the U.S. drug laws is highly important because it will allow society to understand why there is a disproportionate number of Black people in the criminal justice system. There is also compelling evidence that suggests Black males are incarcerated at a higher rate than other races. This claim is supported within a report created by Carsen and colleagues that focuses on prison rates in contrast with race. By examining this data Carsen (2014) found that about 37 percent of men incarcerated in prisons were Black while percent were white. This is significant because it supports the previous claim that Black men have a higher chance at being incarcerated.

Another finding that supports these ideas is the data collected by the Drug Policy Alliance (2015), Figure one demonstrates the incarceration rate of males by also taking into account their race. This graph focuses on the impact drug laws are having on Whites, Latinos, and Blacks. The graph does this by examining the ethnic groups of those in the state and federal prison system for drug offenses.

This evidence suggests that a large proportion of Black males are incarcerated in response to drug offenses. Similarly, MacDonald et al. (2014) performed a study that closely examined the ratio of prisoners and their offenses. The study found that 4.5 percent of the sampling sizes consisted of White people incarcerated for drug offenses while Black males averaged 8.8 percent. The result from this study illustrates that Black people are twice as likely to be sentenced to prison for a drug-related offense. Many of the drug laws associated with these drug offenses were first established during the War on Drugs movement.

### Figure One

#### *The Disproportionate Impact Of Drug Laws on Black And Latino Communities*

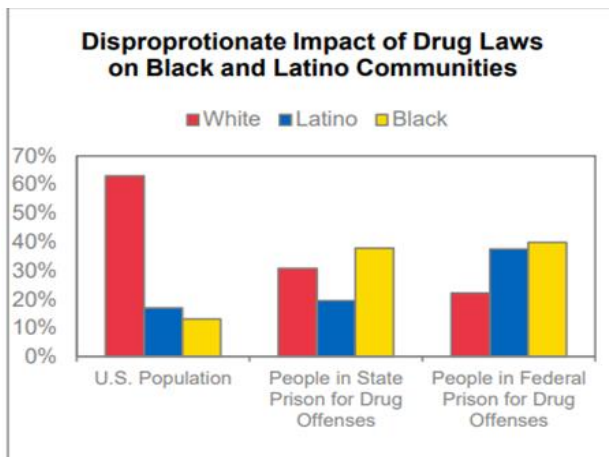


Figure One. Examines the connection between race and drug offenses in the U.S. prison system by MacDonald et al., 2014, *The Journal of Legal Studies*,

## **Section One: The War on Drugs**

Many of the drug laws in use today were developed due to the historical movement known as the War on Drugs. In the 1970s, President Nixon stated that drug abuse was plaguing American citizens. He then declared that drug use was the U.S. number one enemy. In tandem with the growing association between drugs with violent crimes. This led the U.S. government to pass several legislative acts aimed to stop the emerging epidemic and ultimately launch the War on Drugs movement.

For example, the U.S. government created the Smoking Opium Exclusion Act in 1909, which banned the possession and smoking of opium. This substance was common among the Chinese community during this era which presents the idea that the act was targeted towards the Chinese Immigrants (Pascual, 2021). This is significant because it shows how these laws were created with an underlying motive to oppress a certain race. This was also one of the first few acts developed to regulate narcotics regularly (Realuyo, 2019). This later led to the creation of the Controlled Substance Act (1970), which categorizes different substances into one of five schedules. This placement is based on the substance's medical utility, misuse potential, and safety or dependence liability (DEA, 2018). The government created this act in hopes of creating a concrete sentencing system to deter communities from participating in drug use.

In addition to creating new legislative acts with this increased funding the U.S. government also established many new organizations to combat drug abuse. For instance, in 1968 the U.S. government developed the Justice Department's Bureau of Narcotics and Dangerous Drugs. This organization is significant because it is the framework for the Drug Enforcement Administration which is the current organization used today. The United State government created the Drug Enforcement Administration (DEA) in 1973. The organization has

the combined elements of the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and the Justice Department's Bureau of Narcotics and Dangerous Drugs. The U.S. Department of Justice (2021) explains that the organizations was created with the goal of that decreasing the use of drugs in communities. Another goal for the DEA was to stop drugs from entering into the U.S.

However, in today's society, this organization has a lot of other major functions. It also operates with the three components of investigating, coordinating, and denying. First, the DEA investigates individuals that are linked to drug cartel networks. Then, this organization will coordinate with federal, state, and local law enforcement agencies for investigations, information, and resource sharing. Finally, the DEA stops drug revenues to reduce easy access to drugs within communities. This is significant because it is denying individuals the opportunity to receive financial gains through the illegal distribution of drugs (U.S. Department of Justice, 2021). The method this organization functions in now is significant because it helps it achieve its overall purpose of deterring drug abuse within society.

Even though, these acts and organizations were created at an earlier period in history lawmakers continue to focus on the war on drugs. Idler and colleagues (2021) explain that since 1990, every political statement on drugs has emphasized how dangerous drugs are for both society and the youth. This has caused the government to view substance abuse as a primary risk factor for offending in communities. To lower crime rates, the U.S. government imposed stricter legal sanctions for drug offenses via mandatory sentencing.

Mandatory sentencing was first developed by congress in the mid-1970s and comes in two different forms mandatory minimum and statutory maximum. Mandatory minimum requires that an individual convicted automatically receives the minimum prison term for that crime

(FAMM, 2012). While statutory maximum means the individual must receive the highest punishment possible for the crime they are convicted of. The purpose of this sentencing was to ensure the punishment of drug offenders in hopes of deterring crime. This strategy also helps to limit restrict judicial authority to ensure that the law is applied consistently. Mueller (1992) emphasizes that this strategy of sentencing helps deter crime by “maximizing certainty and predictability of incarceration for crimes”. The mandatory sentencing method is one of the many policies that was established in the 1980s during the “get tougher on crime” era.

During this era, many policies were created with the sole purpose of deterring minorities from participating in substance abuse, thus hopefully resulting in less substance use and violent crime. For instance, around this time the government created many crime-prevention programs like Drug Abuse Resistance Education program (D.A.R.E). These programs strived to deter offending by seeking to intervene early in juvenile's lives through the implementation of "safe schools' programs” (Jones, 1995). The main purpose of these policies and programs is to spike fear into members of society. Fear is one emotion that is used to help evaluate risk and reward. Chanel and colleagues (2009) also describe that fear does influence our cognitive process of decision-making. This is significant because by increasing the certainty and severity of punishment, lawmakers hoped to make things like drug use would be less desirable. Especially, since the fear of being punished is strongly instilled in the public's mind. However, this method has not shown to have any significant effect on decrease the prison rates.

Also, during this time, researchers and physicians also voiced fear over things about the severity of different types of drugs. For instance, researchers were very concerned about the use of crack because smoking the substance got into an individual's bloodstream faster than snorting powdered cocaine. This difference in ingestion was then interpreted to mean that crack caused a

“more intense high” and was more addictive (Lavoie, 2007). As a response, U.S. policymakers viewed crack as more dangerous than powdered cocaine, thus leading to their motivation for taking a harsher stand against crack.

## Section Two: Crack Versus Powdered Cocaine

Even though crack and powder cocaine are the same substance, the form in which the substance is in, carries a different sentence. The possession of 500 grams or more of powder cocaine with intent to distribute carries a five-year penalty, whereas for the same sentence a person would only need to have 5 grams of crack with intent to distribute. (The Sentencing Project, n.d.). This distinction, however, only widened the racial gap and had the unintended consequence of putting more Black males behind bars.

Figure Two displays Vagins and colleagues (2006) finding of racial differencing in connection to crack cocaine users and legal defendants. By observing data from the U.S. sentencing commission, the results from 2003 show that 66 percent of crack cocaine users in the U.S. are White, however, Black people made up more than 80 percent of those incarcerated for cocaine use. This study is just one of many that highlight the negative and disparate impact these laws have on the Black community.

### Figure Two

#### *2003 Data of Crack Cocaine Users And Defendants*

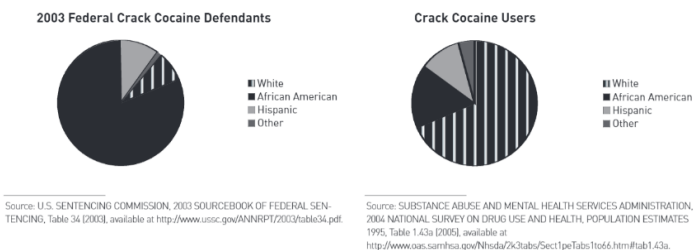




Figure Two. Examines crack cocaine users and the arrestees for the substance. By Vagins et al., 2022

*Any Improvements?*

In recent years, the U.S. criminal justice system has tried to decrease the racial disparity regarding the individuals arrested for crack and powder cocaine. For instance, in 2021, the U.S. Congress introduced and signed the Equal Enforcement of Cocaine Laws Act. This bill was created to eliminate the disparity between crack and cocaine. Creators of this bill also included a clause within the act that the same quantity of the substance will have the same criminal penalty (Congress.gov, 202). This is significant because this would not place the substance on a scale where one form is penalized more. This would place substances like crack and powdered cocaine on the same level and not criminalize one form over another. The bill would cause a dramatic decrease in the racial disparity between cocaine users and cocaine defendants.

However, this bill is still in the beginning stages of becoming a law and has not been passed yet. The bill must now be signed by the Senate, House, and the President before it can fully become a law. Due to this bill recently being signed and not implemented into society yet, there is not enough significant evidence to support whether this bill had a vast effect on the crack and powder disparity.

Cocaine is not the only substance, however, where racial disparities continue to persist. Recent data collected by ACLU has shown that Black males are also being arrested for possession of marijuana. To illustrate this disparity, one must focus on the difference between marijuana smokers and the individuals arrested for marijuana possession charges. Figures Three and Four display the results from a study conducted by the ACLU (Marijuana Arrests By The Numbers, n.d.). The Figures show that while most marijuana users are White, Black people are

four times more likely to be arrested. These results mirror those regarding cocaine use in Figure one and suggest a deeper issue with racial disparity in drug laws. The accessibility of marijuana and other drugs in the Black community in conjunction with high neighborhood crime rates is a commonly hypothesized reason for why Black males may attract more police attention. In combination, This evidence powerfully illustrates some of the issues drug laws are imposing on Black males within their community.

**Figure Three**

*Data of Marijuana users*

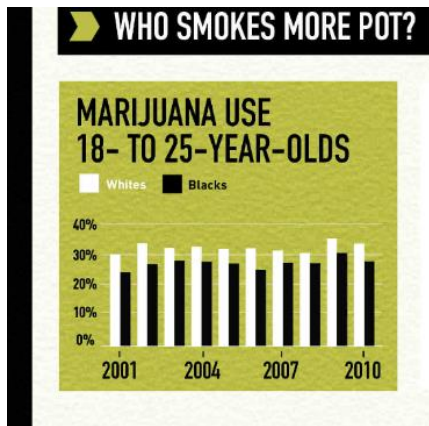


Figure Three. Examines Marijuana Use in relation to race. By ACLU (n.d.)

**Figure Four**

*Those Arrested For Marijuana Possession*

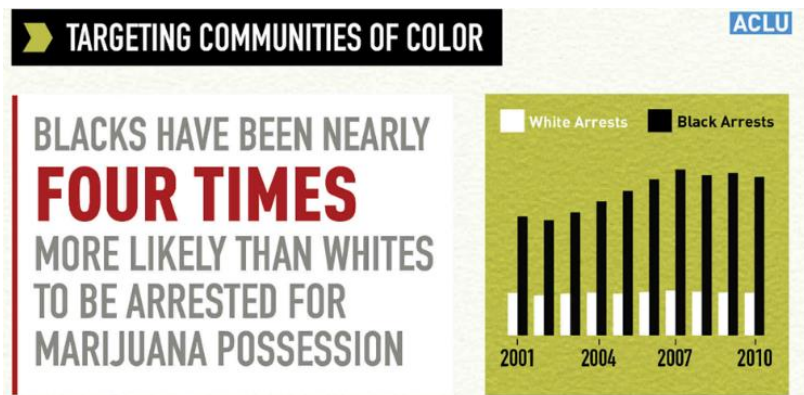


Figure Four. This Scale displays the arrest for white and Black people for marijuana possession.

By ACLU (n.d.)

### **Section Three: Direct impact on the Black Communities**

Arguably many individuals develop the opinion that the laws developed to combat against drugs were directed toward incarcerating Black men. Regarding strict crack and powdered cocaine laws, Black males are primarily impacted in response to these laws because crack is more accessible to them. According to the article, “What is Crack? Differences Between Crack and Cocaine?”, crack is estimated to cost about 40 dollars for .25 grams and cocaine is between \$120 and \$150 for 3.54 grams. Crack being cheaper than cocaine makes it a more accessible and present drug in the Black community.

For instance, the Black youth are more likely to come into contact with marijuana, earlier in their childhood than the average White youth. Reboussin (2007) explains that in the eighth grade Blacks are 20.5 percent likely to use marijuana in their lifetime compared to Whites. This is significant because it displays that the Black community is faced with many illegal opportunities due to the concentration of generational poverty in their community. This is a result of historical racial inequality in education and the labor market. These disadvantages increase the possibility of Black people experiencing high levels of strain.

### **Section Four: The General Strain Theory**

To explain the crime within minority community’s criminologist Robert Agnew developed the general strain theory. Agnew’s theory presents the claim that there will be a large amount of criminal activity in areas where the collective is constantly experiencing strain (Shores et al., 2017). Anything that causes an individual physical or emotional distress can be

described as strain. Multiple elements could result in a community experiencing strain. In Agnew's, he splits the different types of strain into three categories.

The first category failure to achieve one's goals. This element is one of the prevalent sources of strain within these communities. Failure to fulfill your goals may cause stressors such as family and educational strain, leading to a person seeking illegitimate opportunities. Pedalono (2018) describes the second category created as the absence positive stimuli. An example of this, is if someone "breaks up with their significant other" (88). This is considered an absence positive stimulus because the individuals significant other was a positive element that contributed to things like the individual's happiness.

Finally, the third category is the establishment of a negative stimuli. An example of a negative stimuli would be if the individual experiencing the breakup turn to drugs as a coping mechanism. Another example that explains this theory is the idea that an individual faces a large amount of financial strain, they are more likely to turn to criminal activity like stealing or selling illegal substance because it is a way to correct their financial burdens. Recently, many researchers have also applied this theory to explain the drug disparity in communities.

#### *General Strain to explain Substance abuse*

To gain a further understanding on the effects strain has on substance abuse many researchers conducted studies to examine the long-lasting effects of strain. One study conducted by Gamez-Guadix et al. (2013) examined this connection by conducting a longitudinal study that focused on the victims of cyberbullying. Through their study researchers found that the victims did experience negative emotions like depression which ultimately contributed to negative coping like substance use. This study is significant because it displays that the framework for the general strain theory does have a connection to substance abuse among individuals.

Recently researchers have decided to take one step further to understanding strain and substance abuse by examine the connection racial differences have on the effects of strain and substance use. Peck and colleagues (2018) explored the national longitudinal study of adolescents to adults to gain an understanding of the racial disparity associated with substance use. During the study researchers described the dependent variable in the study as the participants long-term substance use. The independent variable was the ethnicity of the participants, which consisted of White, Black, and Hispanic individuals. From conducting this research Peck found that “most types of strain did have a differential effect on White, African-American, and Hispanic youths” (20). This finding is significant because it shows that strain has a certain effect on different race which is contributing to the disparity of drug use. Especially since members of minority communities are often get different opportunities than White people in society.

#### *The Differential Opportunity Theory*

To explain the different opportunities between minorities and White people, criminologists Cloward and Ohlin created the differential opportunity theory. This theory presents the idea that individuals can have access to either legitimate or illegitimate opportunities. The theory then examines opportunities presented to each sector of society. For instance, the theory predicts that Minority youth are denied legitimate access and presented with several illegitimate opportunities in their high-crime neighborhoods. This presents the principle that receiving limited access to achieve one’s goals by legitimate means will result in a delinquent response (Richard et al., 1998). While it is anticipated that upper-class white youth will have access to legitimate opportunities because their community is not high in crime. Finally, middle class youth experience both legitimate and illegitimate means to achieve that

their goals. This is important because it displays how the opportunities accessible to individuals within their community has an effect on their lifestyle.

This theory also explains how different minority communities are often faced with often illegitimate opportunities which causes them to turn to deviant activity. Kerodal (2014) also explains that this theory presents the claim that an individual will blame their unfair society for not having access to legitimate opportunities. An individual will do this because they often feel that an injustice was conducted against them. This different opportunity is shown to have a significantly high effect on members of the black community. Empirical evidence also suggests that there is an extremely high amount of crime that occurs in minority communities.

### **Section Five: Strain in the Black community**

This is significant because it supports the idea that minority groups, like Blacks experience more strain than White people. For example, Black employees are 2.9 times more likely than White employees to report job and economic stress (Hurtado et al., 2012). The high presents of strain in the black community is a substantial detail because it draws a connection to deviance. The best way to examine this connection is with the use of the general strain model. The overview of this model is that strain plus a negative emotion will equal crime. So, if an individual is experiencing financial problems and cannot provide for their family. The individual will experience a negative emotion like sadness which could cause the individual to participate in drug use as a coping mechanism.

Brown and colleagues (2020) examined data gathered by the nationally representative Health and Retirement Study on chronic stress. Researchers required individuals 51 years old to complete a self-questionnaire that asked specific questions to reflect different types of chronic

stress they encountered. Figure Five from the study suggests that Black individuals that participated in the study experienced more stress than White people. For instance, the data shows that the rates of financial strain among Black are doubled compared to White people.

Many researchers believe in the general strain theory which gives them a reason to believe that those individuals are likely to turn to things like substance abuse when they are constantly in a state of strain. Jang and Johnson (2003) believe that this overwhelming strain in the black community leads them to turn to deviant behavior to cope. This deviant behavior includes using an illegal substance like Fentanyl to experience relaxation and euphoria which would allow them to escape their strain.

**Figure Five**

*Strain In Relations To Race*

**Table 2.** Weighted Descriptive Statistics Showing the Prevalence of Exposure to Each Type of Chronic Stressor by Race/Ethnicity, Health and Retirement Study, 2006 (n=6,878)

	Whites	Blacks	Hispanics	p-value
Ongoing personal health problems	61.1	68.5	65.1	<0.001
Ongoing physical/emotional problems in spouse or child	36.8	39.7	37.6	0.38
Ongoing problems with alcohol/drug use in family member	15.2	20.5	20.4	<0.001
Ongoing financial strain	37.2	60.1	50.1	<0.001
Ongoing housing problems	8.5	23.8	16.9	<0.001
Ongoing problems in a close relationship	18.9	25.0	23.1	<0.001
Helping at least one sick, limited or frail family member or friend regularly	35.6	40.3	37.5	0.06
Stress count (mean[SE])	2.1(0.0)	2.7(0.1)	2.4(0.1)	<0.001

Figure five. This graph examines the stress levels among different ethnic groups. By Jang, & Johnson, B. R. (2003).

**Section Six: Crack to Fentanyl**

The Black community now faces the challenges of another drug that is causing many negative effects. According to the CDC's Response to the Opioid Overdose Epidemic (2022), Fentanyl is commonly described as a synthetic opioid that has similar qualities to heroin due to

the drug being more potent than morphine. Even though other opioids are still plaguing the Black community lawmakers are concerned with how quickly Fentanyl overdose rates are rising.

Figure Six displays how the deaths from the drug Fentanyl doubled just within one year (Frostenson, 2016,). The U.S. has also attached a higher mandatory sentence to this drug in hopes of expelling the drug from communities. An individual convicted of trafficking 28 grams or more of Fentanyl, can receive a maximum sentence of thirty years in prison, and the required and mandatory minimum sentence is 25 years in prison or a \$500,000 fine (Hornsby,2022). The U.S. government developed strict rules on this drug due to the massive negative effects the drug has on communities.

In the comparison of Fentanyl with heroin, an individual must be caught with a massive amount of heroin to receive harsh sentencing. For example, someone caught with 40 grams of Fentanyl faces a mandatory minimum of five years in prison. While someone must possess 100 grams of heroin to also receive this sentencing. Fentanyl versus Heroin is much similar to the argument of crack versus powdered cocaine because one substance is weighted higher than the other. However, in the case heroin is still shown to have a higher and more harmful for all races. Yet, the laws are still much stricter on Fentanyl. After viewing the facts, the differences between Fentanyl and heroin sentencing display unintended racial consequences amongst the minority community.



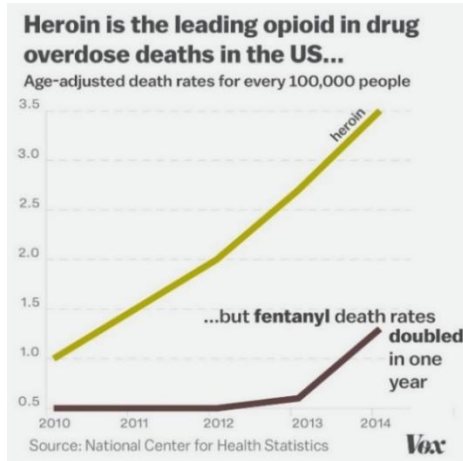
**Figure Six***Heroin Overdose Rates*

Figure Six. Examines the rate in which heroin overdose rates have been increasing over the years by Frostenson, S., (2016).

### Section Seven: Fentanyl vs the Black Community

Many individuals in today's society are describing the battle going on within the Black community with the drug Fentanyl as an Opioid Crisis. Wu and colleagues (2021) illustrate how the rise in opioid overdose rate is shifting the Black community, into a public health crisis. Recently, The drug has become most recognized for causing a spike in the overdose death rates within the Black community. Lippold and colleagues (2019) conducted a study that displayed an increase in the average number of overdose deaths due to Fentanyl from 2015–2016 to now. Findings from the study show that in 2017, overdose rates among Black had a 56.67 percent increase compared to White people who had a 46.64 percent increase in overdose rates. Studies also show that Opioid use is also prominent among White drug users.

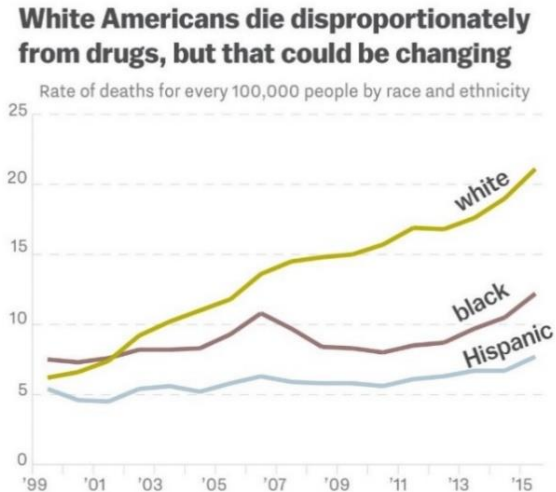
**Figure Seven***Overdose Rates Amongst Race*

Figure Seven. Examining substance abuse death rates among different races and how White

people have a higher death rate from drugs than any other race. By Lippold, K., Jones C., Olsen E, & Giroir, B., (2019).

### **Section Eight: Drugs Commonly Used By White people**

Recent evidence suggests that opioid use among the White community is significantly high. This substance is dangerous to this community because opioids are the leading cause of overdose within the White community. Figure Seven displays Lopez's (2017) findings from evaluating the data enclosed in the recent report created by the Centers for Disease Control and Prevention. The report illustrates the connection between opioid overdoses trends and ethnicity. Evidence within the figure shows that even though opioid use is common among White people, Blacks, and Hispanics, White users still have a significantly high overdose rate.

This finding supports the idea that there is an issue with our laws. Especially since empirical evidence displays white people are high contributor to overdoses rates. Yet, they are incarcerated at a lower rate than black people for drug related offenses. To remove this disparity

drug laws should not be weighted on a scale. Drugs with similar properties should receive the same sentencing.

An example of opioids that are commonly used within the White community race is heroin. Heroin can be described as an opioid derived from morphine however this substance has a lot of negative effects such as high overdose rates. However, a person convicted with a first offense of heroin possession may be sentenced to not more than one year in prison and/or fined not less than \$1,000 (England). This is a significantly lesser amount of time compared to marijuana offenses, Even though there are not any reports of anyone overdosing from marijuana use.

### **Conclusion**

Many factors must be considered when examining the overrepresentation of Black people in the criminal justice system. First, one must consider theories like the general strain theory and the differential opportunity theory created by criminologists to understand substance use in the Black community. For instance, the general strain theory presents the idea that an individual might turn to drug use if they are experiencing a type of strain like financial strain mixed with negative emotions. Evidence presented earlier in this paper supports the idea that Black people experience an extreme amount of strain compared to other races.

One must also examine the historical background of Black and White people to understand the underlying motive of certain laws. For instance, the 13th amendment was created to adopt Black people into society. However, it was created with a loophole that justified slavery if the individual was a criminal. This resulted in the mass incarceration of Black people. The evidence shown in this paper displays the presence of racial biases within U.S. laws. This is

shown through the examination of the different drug laws and their mandatory sentencing. For example, many of the drugs that are commonly found within the Black community have higher sentencing compared to the drugs commonly used in white communities. This is portrayed in this paper with the evaluation of crack and powder. Even though crack and powder are the same substance. The drug that is most commonly found in Black communities has a higher mandatory sentence.

Understanding and identifying this problem is significant because it helps draw attention to the fact that the majority of the United States drug laws sentencing must be re-evaluated to change the over-representation of black males in the criminal justice system. This method is proven to be effective based on a study conducted in 2009. The researcher destroyed the old drug reform in New York, which led to a decrease in the incarceration of Black people. This is significant because it strengthens the idea that re-evaluating U.S. drug laws would decrease the racial disparity. And the number one way to do this is by making sure things like heroin and fentanyl carry the same charge and not letting one charge be less than the other just because of the community in which they are mostly found.

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