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Comparing Black and White Drug Offenders: Implications for Racial Disparities in Criminal Justice and Reentry Policy and Programming

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Abstract

Despite knowledge of racial bias for drug-related criminal justice involvement and its collateral consequences, we know less about differences between Black and White drug offenders. We compare 243 Blacks and White non-violent drug offenders in New Haven, CT for demographic characteristics, substance use, and re-entry services accessed. Blacks were significantly more likely to have sales and possession charges, significantly more likely to prefer marijuana, a less addictive drug, and significantly less likely to report having severe drug problems. For both races, drug treatment was the most common service accessed through supervision. These comparisons suggest different reasons for committing drug-related crimes and thus, different reentry programming needs. While drug treatment is critical for all who need it, for racial justice, we must also intervene to address other needs of offenders, such as poverty alleviation and employment opportunities.

Keywords

race difference; drug of choice; drug offense; drug treatment; reentry

Introduction

The overwhelming increase in incarceration, attributed to the drug war, has disproportionately impacted Black communities. In 2011, Blacks were incarcerated at a dramatically higher rate than Whites (5–7 times) and accounted for almost half of all prisoners incarcerated with a sentence of more than one year for a drug-related offense (Carson and Sabol 2012). Accordingly, researchers and policy analysts have sought to understand both the causes and effects of the nation's war on drugs and its implications for

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racial equality (Ghandoosh 2015; Travis, Western, & Redburn 2014; Alexander, 2012; Drucker 2013; Mauer 2006). They have explored racial bias in the criminal justice system and criminal justice outcomes, including police practices, arrest rates, convictions, sentence lengths, diversionary opportunities, and community supervision; judicial policies and laws such as precedent-setting court cases and mandatory minimum sentences; and media trends and their influence on public opinion. This literature demonstrates greater likelihood of Black involvement in the criminal justice system through policing practices and sentencing policies for drug-related crime, differences in sentencing practices and case processing, and the heightened disadvantage Blacks face once they are removed from their communities, and upon return, as labeled felons and drug offenders.

While a decades-long war on drugs has ravaged Black communities, lately attention has turned to the recent surge in heroin and painkiller use and overdose among Whites, particularly those in suburbs. Local police and state governments are alarmed and are working to address the epidemic as a health issue, reexamining criminal justice policies and the decades-long emphasis on punishment (Seelye 2016). Many are advocating for the return of the rehabilitative role in judicial and correctional efforts as it relates to drug-related offenders (National Institute on Drug Abuse 2014). The Comprehensive and Addiction Recovery Act of 2015 will be considered by Congress to help states address the dramatic increases in prescription opioid and heroin use in the United States through prevention and rehabilitation efforts. The response to the current opioid epidemic, a public health crisis with a “white face,” has been contrasted to the crack epidemic that hit Black communities hard in the 90s and was met with war tactics in affected communities rather than compassion for offenders (Yankah 2016). Such contrasting policy responses have prompted some to raise the question of racially biased motivations and their implications (Mauer 2016). We need race-specific research that is sensitive to differences among offenders in their drug trade involvement to understand the impact of our criminal justice policies. To ensure that policies do not reflect racial bias and continue to perpetuate race-biased outcomes, it is important to consider the demographic, drug use, and service need differences between Black and White drug offenders.

With this analysis we contribute to the dialogue on racial bias in the criminal justice system by comparing characteristics of Blacks and Whites convicted of a non-violent drug offense in New Haven, CT. Specifically, we describe racial differences in the characteristics of offenders, charge, drug of choice, severity of drug problem, and reentry opportunities that were mandated or referred by probation or parole, and consider their implications for criminal justice reforms.

Methods

Study overview

Data for this analysis comes from a larger study, Structures, Health And Risk among Reentrants, Probationers and Partners (SHARRPP) that aims to analyze whether movement between the criminal justice system and the community is associated with Black/White disparities in HIV-related sexual risk. Non-violent drug offenders (N=302) in New Haven, CT were eligible for the parent study if they were over 18, and released from prison or

placed on probation within one year of screening (conducted from July 2010 through February 2011) for a non-violent drug-related charge. We verified their charges with the Department of Corrections (DOC) or Court Support Services Division (CSSD). When the charge was not for a violent crime, but not obviously related to drugs (e.g. not a charge related to possession or sales of drugs), participants were asked if the crime was committed in order to buy drugs, if the crime was committed while high, or if the crime was drug-related in some other way and then were asked to give an explanation.

After eligibility was established, research staff explained to participants the study's purpose, procedures, risks, and benefits, as well as measures taken to protect the confidentiality of subjects, as detailed in the informed consent form. If participants were still interested in and willing to participate, they signed the consent form and then took a computer-based structured survey of about 90 minutes in length that included questions on family history, criminal justice history, and history of housing, employment, drug use, sexual activities, and health problems. Participants were paid US\$40 in compensation. Four rounds of follow up interviews were conducted at 6-month intervals, although for this paper, we rely only on baseline data. The study protocol was approved by IRBs at both Yale University and American University.

Sample

Because the primary aim of this paper is to focus on differences between Blacks and Whites in the crimes they are charged with, drug-use profiles, and services they access, this analysis is restricted to the 243 participants who self-identified as Black (n=146, 60%) or White (n=97, 40%).

Measures

Demographic variables—Participants responded to questions about race, gender, sexual orientation, education, marital status, number of children they had, current employment status, history of homelessness, and current income. Age was determined through date of birth given at time of screening.

Criminal justice variables—The number of adult convictions is based on the question, “How many times have you been convicted of a crime when you were 18 or over?” The number of times incarcerated was measured through the question, “What is the total number of times you have been incarcerated, in an adult prison or jail? Do not include times in which you were ONLY in police lock-up.” Self-reported drug sales was measured by the question, “Have you ever sold drugs?”

For the variable on the most recent charge, we utilized information received about most recent charge from the DOC or CSSD during eligibility confirmation. If there was more than one charge for the most recent arrest, we used the controlling, or main charge, as defined by DOC or CSSD. Any charge related to possession (i.e., possession of narcotics) was coded as ‘1’. Any charge related to sales (i.e., sale of controlled substance) was coded as ‘2’. Any charge that was not sales or possession, but related to drugs in some other way (e.g., larceny

in order to obtain drugs, violation of probation on a previous drug-related charge) was coded as '3'.

We used the dates of entry and release received from the DOC to calculate the length of the most recent criminal justice experience. If this value was missing for a participant, we used participant's self-reported dates from the baseline survey. All participants who entered the study via probation received a '0'.

Drug-use variables—Drug of choice was assessed through the survey question: “Now we would like to ask you about your drug of choice. This is the substance that you would most likely pick up if you were using. It is probably the substance that you have used most in your lifetime. What would you consider to be your drug of choice?” Participants were then asked to identify their drug of choice from an extensive list of options.

To assess whether participants had used drugs in the six months prior to the most recent criminal justice event, they were asked, “Did you use any of the following drugs in the 6 months before [your most recent incarceration/you were placed on probation]? Participants who had used any of the drugs listed were coded as a '1' and those who had not used any drugs were coded as a '0'.

Self-reported drug problem was assessed by the question, “In the 30 days before [your most recent incarceration/you were placed on probation] how many days did you experience drug problems? By drug problems we mean craving, withdrawal symptoms, disturbing effects of use, or wanting to stop and being unable to.” We reported on the number of participants that reported 0 days, at least one day, and all 30 days, as well as average number of days experiencing a drug problem in the 30 days before the most recent criminal justice event.

We measured self-reported drug sales with the question, “Have you ever sold drugs?” Participants who responded yes were coded as a '1' and those that said no were coded as a '0'. Lifetime drug treatment experience was measured by the question, “Have you ever been in any of the following drug treatment programs? Participants were then asked to select from an exhaustive list of drug treatment programs. Those who had participated in at least one program were coded as '1', and those who had not received a '0'.

Services Accessed during Reentry

To understand accessibility of drug treatment programs compared to other reentry programs during community supervision, we looked at responses to the question, “Has a Probation or Parole officer ever helped you to access any of the following services? (Choose all that apply): Outpatient drug treatment, Inpatient drug treatment, Housing subsidy, Job training, Education (adult education, G.E.D., college), Mental Health Services, Bus passes, Government benefits (SAGA, food stamps, or welfare, etc), Social service organization/case manager, Access to Recovery (ATR), Other, No, PO never helped me to access these services.

Analysis

We used chi-square and t-tests to describe the differences across Blacks and Whites in terms of demographics, drug use and services accessed while involved in the criminal justice system. We used multinomial logistic regression techniques to estimate whether race was associated with the likelihood of having a particular drug-related charge, using “other charge” as the referent group. SAS (version 9.4, SAS Institute Inc., Cary, NC) was used for all analyses.

Results

As seen in Table 1, we found significant differences between Blacks and Whites for the following sociodemographic characteristics: gender, number of children, education, and homelessness. More Blacks were male, and Blacks had more children on average than Whites. Whites were more likely to have at least their high school diploma or general education development (GED) equivalency, but were also more likely to report ever having been homeless.

There were also substantial race differences in criminal justice histories. As seen in Table 1, Blacks were convicted significantly fewer times than Whites (8.43 vs 11.29 times), but they had significantly more sentences resulting in incarceration than Whites (9.09 vs 6.15) and significantly longer last sentences than Whites (1.74 vs .71 years). As seen in Table 2, the charge for the most recent incarceration differed significantly by race. Blacks were more frequently charged with drug sales or possession than Whites (27% vs 4%; 20% vs 16%, respectively). Whites had more charges indirectly related to drugs, such as committing a crime in order to buy drugs, or being high while committing a crime (80% vs. 53%). Further, as seen in Table 3, Blacks were 2.2 times (95% OR: 1.07–4.55) more likely than Whites to have a possession charge as compared to an “other” charge even after adjusting for other sociodemographic factors. Similarly, Blacks were 8.24 times more likely than Whites to have a sales charge as compared to an “other” charge, after adjusting for other sociodemographic factors (95% OR: 2.73–24.90). Finally, while Blacks were significantly more likely than Whites to have been arrested most recently for drug sales, we found no statistical race difference in self-reports of ever having sold drugs (79% of Blacks vs. 70% of Whites).

Because addressing drug abuse is a key component of rehabilitative initiatives for offenders, yet drugs vary widely in addictiveness and effect, it is important to understand drug of choice among drug offenders. In our sample, drug of choice differed significantly by race ($p < .0001$) (see Table 4). Blacks were significantly more likely to prefer marijuana (49%) while Whites were more likely to prefer heroin (52%). Crack was the second most likely single drug of choice for both racial groups (28% of Blacks and 13% of Whites).

Further, we see differences in Black and White self-report of drug use, severity of drug problem, and drug treatment (see Table 5). Blacks and Whites report similar rates of any drug use in the six months before their most recent criminal justice event (90% of Blacks and 89% of Whites). However, self-report of having a drug problem in the month prior to incarceration or placement on probation differed significantly by race ($p < .0002$). Thirty-

seven percent of Blacks and 13% of Whites reported experiencing no drug problems in the month before their most recent criminal justice event. Twenty percent of Blacks and 51% of Whites reported experiencing a drug problem all thirty days in the month before the most recent criminal justice event. On average, Whites experienced drug problems on 19 (SD=12) of the 30 days while Blacks experienced drug problems on 9 (SD= 12). Finally, the majority of both Blacks (80%) and Whites (94%) report having ever been in drug treatment, though significantly more Whites report being in in drug treatment at some point in their life ($p < .004$).

A sizeable share of both Blacks (19%) and Whites (25%) reported that a probation or parole officer has never helped them access services. Among those who had been helped, participants described a wide range of services that probation or parole officers helped them access (See Table 6). Of these, outpatient and inpatient drug treatment were the most common, with half of Blacks and Whites indicating that probation or parole officers had helped them access outpatient drug treatment, and approximately one-third of Blacks and Whites reporting they had help in accessing inpatient drug treatment. It is notable that while more Whites reported ever having been in drug treatment, roughly equal percentages of Blacks and Whites report accessing this service through their probation or parole officer. We found significant differences between Blacks and Whites for the categories of job training, education, and government benefits, with Blacks accessing these services through their probation or parole officer more often.

Discussion

These findings point to differences between Blacks and Whites in a non-violent drug offender population in New Haven, CT. These differences, in turn, have important programming and policy implications.

First, relative to Whites, Blacks in our study were at an economic disadvantage, as demonstrated by their lower income and education levels. Consistent with these findings, in 2011, Black men were unemployed at a rate of 25% in the city of New Haven compared to 12% for White men (Rawlings 2013). The median income for Black families was US \$37,547 compared to an average White family income of US\$77,443 (Rawlings 2013). It is reasonable to suggest, as others have (Friedman, Flam, et al. 2003; Saxe, Kadusshin et al. 2001), that the involvement of Blacks in the drug trade may be at least partly a response to their poverty and lack of employment opportunities. To ensure Black drug offenders will fully benefit from criminal justice diversionary, prison, or reentry programming, it is important to be cognizant of the economic reasons for their involvement in the drug trade and address their economic needs. Accordingly, investment in quality inner-city education, youth programming, and effective job generation, training and placement should be an important part of efforts to address crime prevention and recidivism.

Second, Blacks were more likely to be charged with possession and sales, while Whites were more likely to be charged for illegal activity related to drug use, such as stealing to support their drug habit. Yet, Whites and Blacks in our study both reported the same degree of drug sales. Drug sales may be more visible in inner city, overcrowded Black

neighborhoods where they are more likely to take place outdoors (Stark 1987). Recent research in the ecology of crime has focused our attention away from individual characteristics and social capital within neighborhoods to the characteristics of neighborhoods themselves, such as the activity level on streets (Browning and Jackson 2013). The widespread and well known over-policing of Black neighborhoods during the war on drugs (Cooper 2015, Goffman 2014, Rios 2011) can further stigmatize and disillusion those in contact with police, and lead to more law-breaking (Wiley, Slocum, and Esbensen 2013) and punishments beyond their sentences. For example, with regard to the latter, to the extent that Blacks in our study were more likely to be incarcerated on charges explicitly labeled as drug-related, Blacks would also be more likely to suffer the collateral consequences specifically associated with drug charges, such as exclusion from certain forms of financial aid, housing benefits, and job screening scrutiny (Drucker 2013).

Third, Blacks in our study reported preferring marijuana to harder drugs, and having less serious drug problems. Though almost equal percentages of Blacks and Whites in our study reported using drugs in the thirty days before their most recent criminal justice event, Blacks reported experiencing significantly fewer drug problems. The latter could be due to the way in which we defined drug problem: craving, withdrawal symptoms, disturbing effects of use, or wanting but being unable to stop. To the extent that marijuana does not cause the same withdrawal symptoms or disturbing effects that heroin or cocaine causes but can still be abused, problems related to marijuana use may not have been reported, a potential weakness of the study. Alternatively, lower self-reported drug problems in the 30 days prior to participants' most recent criminal justice event could be related to increased criminal justice involvement for Blacks during those 30 days in the form of incarceration, probation, or parole, which may lessen their ability to use drugs. We were unable to control for criminal justice involvement in the 30 days prior to most recent criminal justice event, as we did not ask participants about this in the survey. However, the finding may point to real differences in use and severity of drug problem, and thus real differences in the need for and subsequent fit of drug treatment. Research suggests that in general, the community supervision system is blind to drug type and severity when offering drug treatment programs, which may account for why program success is less common for marijuana users mandated by probation to treatment (Taxman & Thanner, 2006). Future research should explore the specific treatment needs of marijuana users and whether available drug treatment programming reflects adequate attention to marijuana abuse. As our country turns toward decriminalizing marijuana in some states, we will also need effective tools for discerning the difference between abuse and recreational use. Without attention to these issues, racial bias in the criminal justice system is likely to continue.

Finally, both Blacks and Whites reported that drug treatment was the service most accessed through parole and probation officers. Certainly, drug treatment for criminal justice involved populations is a necessary rehabilitation service, and it is vital for drug offenders to be able to access drug treatment services through the criminal justice system. However, treatment needs of Blacks and Whites may differ by drug type and severity of problem. Race-sensitive research is needed on the types of services offered, client-centered perspectives on such treatment, and degree of success of treatment, in order to enhance systems of drug treatment accessed through the criminal justice system. Further, it is critical that our criminal justice

policies acknowledge the overall context of drug offending. The Second Chance Society Bill, passed in Connecticut in 2015, is an example of an integrated approach that attempts to address the structural issues offenders face (State of Connecticut 2015). It incorporates criminal justice reform with education, employment and housing opportunities for ex-offenders while working to reduce the school to prison pipeline through expansion of a school based diversion program.

The small sample size of this study and location within a single city are limitations that caution against the generalizability of findings. More research is needed on differences between Black and White drug offenders in multiple and diverse locations and with larger samples. As noted earlier, more explicit questions related to drug problems may have enhanced our ability to understand the nature of drug use among our study sample. Finally, further information about criminal justice involvement during the 30 days prior to the most recent criminal justice event may have helped us to understand differences in reported drug problems during this period for Blacks and Whites, but we did not collect this information.

The findings from our study point to the different characteristics of Blacks and Whites within the criminal justice system and suggest a need to acknowledge these differences in the provision of services to both populations. It also suggests that as long as there are distinct penalties and post-incarceration consequences associated with possession and sale of drugs, there will be disproportionate negative consequences for Blacks. If we don't specifically pay attention to race, when race is a fundamental organizing principal of society, our policies regarding treatment and reentry services will by default guarantee racial inequality. As Alexander (2012) writes in *The New Jim Crow*: "...racial caste systems do not require racial hostility or overt bigotry to thrive. They need only racial indifference, as Martin Luther King Jr. warned more than forty five years ago."

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Table 1

Descriptive Characteristics by Race, SHARRPP 2011–2012

	Full sample (n=243) % (n) or mean (SD)	Black (n=146) % or mean (SD)	White (n=97) % or mean (SD)	p-value
<i>Demographic characteristics</i>				
Male	81% (198)	86%	75%	.04
Heterosexual	93% (225)	92%	93%	.93
Never married	62% (151)	65%	58%	.24
High school degree, GED equivalency, or greater	72% (176)	67%	80%*	.02
Not currently working	74% (180)	71%	78%	.22
Ever had a job	96% (234)	95%	98%	.32
Ever homeless	60% (147)	54%	70%	.01
Age	39.39 (10.55)	40.06	38.36	.22
Children (n=234)	1.80 (1.93)	2.13	1.28	0
Average monthly income	US\$2,335 (8,022)	US\$1,913	US\$2,957	.34
<i>Criminal justice history</i>				
# of adult convictions	9.57 (9.69)	8.43	11.29	.02
# times incarcerated	7.92 (10.84)	9.09	6.15*	.03
Average length of last sentence, in years	1.33 (2.55)	1.74	0.71	0

Note. SHARRPP = Structures, Health and Risk among Reentrants, Probationers and Partners; GED = general education development. Bolded p-values indicate $p < .05$

Table 2

Charge for most recent criminal justice event by race

	Black (n=146) % (n)	White (n=97) % (n)	X², p-value
<i>Charge</i>			25.05, <.0001
Possession	20% (29)	15% (15)	
Sales	27% (40)	4% (4)	
Other	53% (77)	80% (78)	

Note: Bolded p-values indicate $p < .05$

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Table 3

Multinomial Logistic Regression Assessing Whether Charge is Associated with Race After Adjusting for Other Sociodemographic Variables

	Possession vs Other Drug-Related Charge		Sales vs Other Drug-Related Charge	
	AOR (95%CI)	p-value	AOR (95%CI)	p-value
Black	2.20 (1.07–4.55)	.03	8.24 (2.73–24.90)	.0002
More than HS degree Education or GED equivalency	1.99 (.83–4.78)	.12	.67 (.30–1.52)	.34
Ever homeless	.82 (.40–1.67)	.58	.19 (.09–.41)	<.0001
Males	.65 (.28–1.51)	.31	1.65 (.51–5.30)	.40

Note. AOR = adjusted odds ratio; CI = confidence interval; HS = high school; GED = general education development. Note: Bolded p-values indicate $p < .05$

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Table 4

Drug of Choice by Race, 2011–2012*

	Black (n=146) % (n)	White (n=95) % (n)	p-value
<i>Drug of Choice</i>			<.0001
Marijuana	49% (68)	10% (9)	
Heroin	7% (10)	50% (47)	
Crack	28% (41)	13% (12)	
All Other Drugs	13% (20)	24% (23)	
No Drug of Choice	5% (7)	4% (4)	
<i>Ever Injected</i>	14% (20)	60% (57)	<.0001

* Data missing for 2 participants

Note: Bolded p-values indicate $p < .05$

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Table 5

Drug Use, Self-Reported Drug Problem*, and Drug Treatment 2011–2012

	Blacks % (n) or mean (SD)	Whites % (n) or mean (SD)	p-value
Drug Use in the Six Months Before Most Recent CJE	90% (128/142)	89% (86/97)	.71
<i>Number of Days of Drug Problems in Month Before Most Recent CJE</i>			.0002
0 Days of Drug Problems in Month Before Most Recent CJE	37% (49/133)	13% (11/86)	
At Least One Day but Less Than 30 Days of Drug Problems in Month Before Most Recent CJE	43% (57/133)	36% (31/86)	
30 Days of Drug Problems in Month Before Most Recent CJE	20% (26/133)	51% (44/86)	
Average Number of Days of Drug Problems in Month Before CJE	8.84 (11.61)	19.47 (12.28)	.0001
Ever in Drug Treatment	80% (117/146)	94% (89/95)	.004

* Drug problem was defined as craving, withdrawal symptoms, disturbing effects of use, or wanting to stop and being unable to.

Note: CJE=Criminal Justice Experience. Note: Bolded p-values indicate $p < .05$

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Table 6

Services Accessed Through Help of a Parole or Probation Officer*

Services	Black (n=134) % (n)	White (n=94) % (n)	p-value ⁺
Outpatient drug treatment	47% (63)	52% (49)	0.45
Inpatient drug treatment	28% (37)	36% (34)	0.17
Housing subsidy	8% (10)	5% (5)	0.52
Job training	20% (27)	8% (7)	0.008
Education	10% (13)	2% (2)	0.02
Mental health services	11% (14)	13% (12)	0.59
Bus passes	21% (28)	17% (16)	0.47
Government benefits	11% (15)	3% (3)	0.03
Social service organization/case manager	2% (3)	8% (7)	0.10
Access to Recovery	11% (15)	15% (14)	0.41
Other	8% (10)	5% (5)	0.52
PO never helped	19% (25)	25% (23)	0.29

* Data missing for 15 participants

⁺ p-values were obtained using chi-square test except for social service organization/case manager which was obtained using Fisher's exact test.Note: Bolded p-values indicate $p < .05$