

# ***RACE, CLASS AND THE WAR ON DRUGS***

*A community forum examining the disproportionately adverse effects  
of current drug law enforcement on racial minorities and the poor*

*sponsored by*

King County Bar Association  
Loren Miller Bar Association  
Washington Defender Association  
American Civil Liberties Union of Washington  
Bureau of Justice Statistics, U.S. Department of Justice

## **SELECTED RESEARCH**

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Seattle, Washington  
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## **The Disproportionate Impact of Current Drug Policy on Racial Minorities and the Poor**

There is troubling evidence of over-representation of minorities and low-income people in Washington's criminal justice system, especially in connection with drug offenses. The King County Bar Association's Task Force on Racial and Class Disparity is undertaking an in-depth analysis of this important issue and is now preparing a report with recommendations.

Many state and national studies have identified disproportionate representation throughout the criminal justice process. In King County, for instance, African-Americans in 2000 received felony drug sentences at a rate of 150 per 10,000, compared with Native Americans at 34, Hispanics at 32 and Caucasians at 7 per 10,000, according to the Sentencing Guidelines Commission. Beyond the structural factors underlying these disparities, there are points of discretion that arise in the criminal process that can affect over-representation, including policing and pre-trial release decisions, access to treatment or sentencing alternatives and charging practices.

There is also mounting concern that all members of society trust in the fairness of the criminal justice system. A 1999 Washington state court survey found strong differences among different racial and ethnic groups in the perception of fairness of treatment by the police and the courts. Some tools of the "War on Drugs," such as selective drug enforcement, have engendered adversarial relationships between the police and some communities. Even appropriate and well-intentioned police actions have strained relations with these communities. The justice system must be able to regain confidence from all segments of society.

Some quick statistics: The Sentencing Guidelines Commission reported that African-Americans in King County are sentenced for controlled substances violations at more than 20 times the rate as whites. African-Americans and Native Americans are consistently sentenced at higher rates around the state.

*(Representation and Equity in Washington State: An Assessment of Disproportionality and Disparity in Adult Felony Sentencing, FY 2000, Sentencing Guidelines Commission)*

African-Americans constitute about 8 percent of Seattle's population, yet 57 percent of adult drug arrests in 1999 were African-American.

*(A Window of Opportunity: Addressing the Complexities of the Relationship Between Drug Enforcement and Racial Disparity in Seattle, Kennedy School of Government, Harvard University (April 2001))*

## **Drug Use and Abuse**

The National Household Survey on Drug Abuse (NHSDA) obtains information on the use of marijuana (including hashish), cocaine (powder and “crack”), heroin, hallucinogens (including LSD, PCP, peyote, mescaline, mushrooms and MDMA, or “Ecstasy”), inhalants (including amyl nitrate, paint and glue) and prescription-type pain relievers, tranquilizers, stimulants (including methamphetamine) and sedatives. The use of alcohol and tobacco are not included. The most recent annual survey reveals the following, for persons aged 12 or older:

### **Percent Using Illicit Drugs in Past Month, by Race/Ethnicity, 2000-2001**

<b>White</b>	<b>6.8</b>
<b>Black</b>	<b>6.9</b>
<b>Mexican</b>	<b>5.8</b>
<b>Am. Indian</b>	<b>11.2</b>
<b>Puerto Rican</b>	<b>9.2</b>
<b>Pacific Islander</b>	<b>5.1</b>
<b>Korean</b>	<b>5.0</b>
<b>Japanese</b>	<b>4.5</b>
<b>Cuban</b>	<b>3.7</b>
<b>Central/ South American</b>	<b>3.6</b>
<b>Vietnamese</b>	<b>3.0</b>
<b>South Asian</b>	<b>2.2</b>
<b>Filipino</b>	<b>2.2</b>
<b>Chinese</b>	<b>1.3</b>

Special note: among youths aged 12 to 17, the drug use rate is highest in the Native American population (23 percent).

Source: Office of Applied Studies, Substance Abuse and Mental Health Services Administration (SAMHSA), National Household Survey on Drug Abuse, 2001

*Drug Use and Abuse (cont.)*

A special report by the NHSDA compiled data from 1991 through 1993, looking specifically at racial/ethnic differences in illicit drug involvement, and revealed the following:

**Percent Using Cigarettes, Alcohol and Illicit Drugs in Past Year,  
by Race/Ethnicity, 1991-1993**

	<u>Cigarettes</u>	<u>Alcohol</u>	<u>Any Illicit Drug</u>	<u>Marijuana</u>	<u>Cocaine</u>
Native American	52.7	63.7	19.8	15.0	5.2
Asian/Pacific Is.	21.7	53.2	6.5	4.7	1.4
Hispanic:					
Caribbean	21.2	60.8	7.6	5.6	1.5
Cent. America	17.9	51.1	5.7	2.7	1.1
Cuba	27.3	65.7	8.2	5.9	1.7
Mexico	29.1	63.7	12.7	9.1	3.9
Puerto Rico	32.7	59.5	13.3	10.8	3.7
South America	31.3	74.1	10.7	8.4	2.0
Non-Hispanic Black	29.9	55.4	13.1	10.6	3.1
Non-Hispanic White	31.5	68.9	11.8	8.9	2.4
<b>TOTAL</b>	<b>30.9</b>	<b>66.4</b>	<b>11.0</b>	<b>9.0</b>	<b>2.5</b>

Source: Office of Applied Studies, Substance Abuse and Mental Health Services Administration (SAMHSA), National Household Survey on Drug Abuse, 2001

**\*A note on drug selling activity:** The NHSDA no longer compiles statistics on the number and demographic breakdown of drug sellers. However, questions about drug selling were included in the 1991-93 survey cited above, and revealed that *whites constitute a far greater share of the drug selling population than of the population arrested for drug selling.* On average, over the three-year period, blacks comprised 16 percent of sellers and whites comprised 82 percent. Research on patterns of drug purchases shows that the main sources for drug users are usually sellers of the same racial or ethnic background. The White House Office of National Drug Control Policy, in its regular *Pulse Check* publication, reports a very high frequency of intra-racial drug transactions.

Sources: Riley, K. Jack, *Crack, Powder Cocaine, and Heroin: Drug Purchase and Use Patterns in Six U.S. Cities*, National Institute of Justice and ONDCP, 1997  
Lockwood *et al.*, "Crack Use, Crime by Crack Users, and Ethnicity," in Hawkins, ed., *Ethnicity, Race and Crime*, SUNY Press, 1995.  
Davis, Patricia and Pierre Thomas, "In Affluent Suburbs, Young Users and Sellers Abound," *Washington Post*, December 14, 1997

*Drug Use and Abuse (cont.)*

### **Washington State Statistics**

The most recent survey of drug use among Washington State residents reveals the following:

	<b>White</b>	<b>Afr.-American</b>	<b>Asian</b>	<b>Am.Indian</b>	<b>Hispanic</b>
<b>Alcohol (ever)</b>	<b>94.7%</b>	<b>88.2%</b>	<b>71.8%</b>	<b>96.0%</b>	<b>85.1%</b>
<b>Alcohol (30 days)</b>	<b>58.5%</b>	<b>45.7%</b>	<b>37.8%</b>	<b>43.8%</b>	<b>47.1%</b>
<b>Marijuana (ever)</b>	<b>42.8%</b>	<b>37.2%</b>	<b>16.8%</b>	<b>55.0%</b>	<b>30.0%</b>
<b>Marijuana (30 days)</b>	<b>5.1%</b>	<b>4.9%</b>	<b>1.3%</b>	<b>6.9%</b>	<b>1.9%</b>
<b>Hard Drugs (ever)</b>	<b>25.3%</b>	<b>18.2%</b>	<b>8.5%</b>	<b>39.0%</b>	<b>18.3%</b>
<b>Hard Drugs (past year)</b>	<b>4.5%</b>	<b>3.0%</b>	<b>1.5%</b>	<b>5.2%</b>	<b>3.0%</b>

Source: Albert, David H., *Tobacco, Alcohol, and Other Drug Abuse Trends in Washington State*, Division of Alcohol and Substance Abuse, Washington State Department of Social and Health Services, 2002

### **Seattle-King County Statistics**

The racial/ethnic breakdown of King County's population is as follows:

<b>Caucasian</b>	<b>75.7 %</b>
<b>Asian/Pacific Islander</b>	<b>10.8 %</b>
<b>African American</b>	<b>5.4 %</b>
<b>Hispanic</b>	<b>5.5 %</b>
<b>Native Hawaiian</b>	<b>0.5 %</b>
<b>Native American/ Alaska Native</b>	<b>0.9 %</b>

*Drug Use and Abuse (cont.)*

**Seattle-King County (cont.)**

The number of emergency department “mentions” of illicit drug use in Seattle for the year 2001 are as follows:

	Cocaine	Marijuana	Heroin	Methamphetamine	Alcohol (comb.)
<b>White</b>	1,699	997	1,229	284	1,968
<b>Black</b>	1,109	256	199	12	471
<b>Hispanic</b>	152	46	78	10	118

Source: Office of Applied Studies, SAMHSA, *Drug Abuse Warning Network (DAWN)*, 3/2002 update of 2001 report

Of the emergency department “mentions” for cocaine in Seattle in 2001, 56 percent were Caucasian, 34 percent were African American and 5 percent were Hispanic.

Of all the heroin-related deaths in King County for 2001, 81 percent were Caucasian.

Source: Banta-Green *et al.*, “Recent Drug Abuse Trends in the Seattle-King County Area,” *Epidemiologic Trends in Drug Abuse*, June 2002

## **Addiction and Poverty**

A recent Brandeis University study shows that disadvantaged neighborhoods do *not* have a higher rate of addiction problems than other areas. The study, based on a survey of 42,000 people in 2,100 neighborhoods, did find, however, that *visible drug sales* are 6.3 times higher in the “most disadvantaged” neighborhoods than in the “least disadvantaged” communities. As distinct from “disadvantaged” neighborhoods, the “most disadvantaged” neighborhoods also did see a higher rate of drug dependency. Dr. Leonard Saxe, who led the study, commented that drug control initiatives target users in poor areas with visible drug markets, but that drug use extends into all communities, “not just hot spots.” He also commented that much of the addiction-related harm in poor areas originates with drug users who drive in from other areas.

The study is published in the *American Journal of Public Health*, vol. 92, no. 3, March, 2002.

## Arrest and Incarceration

According to the FBI's Uniform Crime Reports, a comparison of arrests from 1990 to 2000 for drug offenses in the United States (non-federal cases) reveals the following percentages:

	White	Black	Native Am.	Asian
<b>Drug Arrests in 1990</b>	58.5%	40.7%	0.3%	0.4%
<b>Drug Arrests in 2000</b>	64.2%	34.5%	0.5%	0.7%

Although it appears that there was an increase in arrests of whites for drug law violations between 1990 and 2000, it is important to note that "Hispanics" are not broken out as a separate category and are considered part of the "White" population.

Sources: *Uniform Crime Report 1990*, FBI, table 38, p. 1192; *Uniform Crime Report 2000*, FBI, table 43, p. 243.

On the federal level, statistics from 1999 related to arrest, charging and sentencing of federal drug law violators reveal the following:

	% of Drug Arrests	% of Drug Charges	% of Drug Sentences
<b>White</b>	76.2%	24.8%	25.0%
<b>Black</b>	30.8%	27.9%	31.2%
<b>Hispanic</b>	N/A	45.5%	42.0%

Sources: *Compendium of Federal Justice Statistics 1999*, Bureau of Justice Statistics, table 1.3, p. 17; *Federal Drug Offenders, with Trends 1984-89*, BJS, table 3, p. 6; *Sourcebook of Criminal Justice Statistics 2000*, BJS, table 5.35, p. 450.

**The "Crack" Cocaine Disparity:** 90 percent of federal crack cocaine defendants are African-American. By contrast, the U.S. Sentencing Commission estimates that 65 percent of crack users are Caucasian.

Sources: *New York Times*, October 24, 1995, p.A18; *Cocaine and Federal Sentencing Policy*, U.S. Sentencing Commission, Special Report, 1995, pp. 39, 161.

## **Washington State and Local Drug Arrests**

According to the Washington Association of Sheriffs and Police Chiefs, the following arrests were reported for 2001 for drug law violations:

	<b>% of Drug Arrests</b>	<b>% of General Population</b>
<b>White</b>	<b>80.0%</b>	<b>83.4%</b>
<b>Black</b>	<b>15.9%</b>	<b>3.0%</b>
<b>Native American</b>	<b>2.1%</b>	<b>1.4%</b>
<b>Asian</b>	<b>1.7%</b>	<b>6.1%</b>

In the City of Seattle, arrests for drug violations in 2001 were as follows:

	<b># of Drug Arrests</b>	<b>% of Drug Arrests</b>
<b>White</b>	<b>1,798</b>	<b>42.7%</b>
<b>Black</b>	<b>2,181</b>	<b>51.9%</b>
<b>Native American</b>	<b>88</b>	<b>2.0%</b>
<b>Asian</b>	<b>138</b>	<b>3.3%</b>

Once again, the “White” categories also include “Hispanics” and, there are no separate figures for arrests of Hispanics statewide or in Seattle.

Source: *Crime in Washington Annual Report 2001*, Washington Association of Sheriffs and Police Chiefs; and information also provided directly from WASPC research staff.



## **U.S. and Federal Prisons and Prison Sentences**

Of all felony drug convictions in state courts throughout the United States in 1998, 53% were of African Americans and only 46% were of Caucasians, with “Hispanics” included in the “White” category.

Similarly, of all drug offenders currently in state prisons across the United States, 57.9% are African-American, 23.2% are Caucasian and 17.2% are Hispanic.

Sources: *State Court Sentencing of Convicted Felons*, 1998, Bureau of Justice Statistics, table 2.1, p. 14; Prisoners in 2001, BJS, table 17, p. 13.

On the federal level, a comparison of sentence lengths for drug offenses from 1989 to 1999 reveals the following:

<b>Drug Offense Sentence Lengths (Avg.)</b>	<b>1989</b>	<b>1999</b>
<b>White</b>	<b>70 months</b>	<b>57.5 months</b>
<b>Black</b>	<b>89 months</b>	<b>106.9 months</b>
<b>Other</b>	<b>69.9 months</b>	<b>79.7 months</b>

Sources: *Sourcebook of Criminal Justice Statistics 1992*, BJS, table 5.21, p. 492; *Sourcebook of Criminal Justice Statistics 2000*, BJS, table 5.20, p. 430

Citing a recent report by the Sentencing Project, the Associated Press reported on July 31, 2002 that the overall growth in prison populations has slowed, but that drug sentences are still putting unprecedented numbers of African Americans behind bars. About 10 percent of African-American males age 25 to 29 are in prison, compared with 2.9 percent of Hispanic men and only 1.2 percent of white men of the same age range.

In a recent report by the Justice Policy Institute, called “Cellblocks or Classrooms?” a state-by-state analysis of corrections and higher education spending shows that, between 1985 and 2000, increases in state corrections spending amounted to about \$20 billion, compared with increases in higher education spending at \$10.7 billion. In 2000, there were an estimated 791,600 African Americans in prisons and jails, compared with 603,000 African Americans enrolled in higher education.

## Washington State Prisons and Prison Sentences

According to the Washington Department of Corrections' research staff, the following figures reflect the current inmate population:

- African-American prisoners comprise 22% of the entire prison population (3,558 out of 16,217)
- Hispanic prisoners comprise 11.2% of the entire prison population (1,810 out of 16,217)
- 30% of all African-American prisoners are serving exclusively drug sentences (1,052 out of 3,558)
- 35% of all Hispanic prisoners are serving exclusively drug sentences (630 out of 1,810)
- 21.2% of all state prisoners have drug crimes as their most serious offense. Of those offenders, African Americans constitute 31.2% and Hispanics constitute 18.8%.

Findings from a study by the Sentencing Guidelines Commission reveal a significant disproportion in the sentencing of drug offenders of certain races:

<b>Statewide</b>	<b>% of Population</b>	<b>% of Drug Sentences</b>	<b>Sentence Ratio</b>
Caucasian	83.4%	75.1%	0.8
African American	3.0%	19.7%	6.6
Hispanic	6.2%	10.8%	1.8
Native American	1.4%	2.0%	1.5
Asian/Pacific Is.	6.1%	1.6%	0.3

  

<b>King County</b>	<b>% of Population</b>	<b>% of Drug Sentences</b>	<b>Sentence Ratio</b>
Caucasian	77.9%	34.5%	0.4
African American	5.0%	50.3%	10.1
Hispanic	4.9%	10.4%	2.1
Native American	0.8%	1.8%	2.2
Asian/Pacific Is.	11.5%	3.0%	0.3

Source: Lee, Nella *et al.*, *Representation and Equity in Washington State: An Assessment of Disproportionality and Disparity in Adult Felony Sentencing*, Sentencing Guidelines Commission, 2001

# Stereotypes

A 1998 study by University of Washington professor George Bridges examined how Washington state probation officers' perceptions of offenders influenced their classification, assessment and final recommendations for punishment of juveniles. Controlling for all other factors, the analysis revealed that probation officers' reports on black youths were more likely to include negative personality traits, while reports on white youths were more likely to include negative environmental influences. The officers' assessments of the risk of re-offending were higher for blacks than for whites.

Quoting the report: "Some offenders are perceived as threatening and at risk of re-offending because of their personal characteristics .... Officials may perceive blacks as more culpable and dangerous than whites in part because they believe ... their crimes are linked to personal traits. Further, officials may perceive these traits as not amenable to correctional treatments the courts typically administer.

Court officials can rely more heavily on negative internal attributions, instead of the severity of the crime or criminal history, to determine dangerousness and the likelihood of recidivism. This could be a key factor contributing to racial disproportionality. Currently, a new set of **risk assessment instruments** are used to help determine the likelihood of re-offending. There is a question, however, as to whether those risk assessment tools are racially biased in some way, or whether the use of those tools has any racial implications.

Source: Bridges, George S., and Sara Steen, "Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms," *American Sociological Review*, vol. 63, no. 4, August 1998.

## School Issues

A study released in April 2001 by the Seattle Public Schools showed that African Americans are twice as likely to face discipline, and three times as likely to be disciplined, than white students. Subjective factors such as disruptive conduct (29%), disobedience (17%) and rule breaking (7%) made up over half of the disciplinary proceedings.

These findings are consistent with another recent study by the Indiana Education Policy Center on racial and gender discrepancies in school disciplinary outcomes, which found that African-American students did not “act out” more than other students, but rather, were referred to administrative offices for less serious and more subjective reasons. This led to a disproportionate rate of suspension for less serious behavior than white students.

Although the Indiana study found racial and gender discrepancies in school disciplinary outcomes that were unrelated to poverty status, other studies have shown a relation between income and school disciplinary sanctions.

Source: *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, Indiana Education Policy Center, June 2000.

The White House Office of National Drug Control Policy has reported on drug involvement in schools, by race:

### Offered, sold or were given an illegal drug on school property:

	1993	1995	1997
White, non-Hispanic	24.1%	31.7%	31.0%
Black, non-Hispanic	17.5%	28.5%	25.4%
Hispanic	34.1%	40.7%	41.1%

Source: National Drug Control Strategy, 2000 Annual Report, ONDCP; “Youth Risk Behavior Surveillance – U.S. (1993, 1995 and 1997),” *Morbidity and Mortality Weekly Report*, Centers for Disease Control.