

WASHINGTON STATE DRUG LAWS: RACIAL DISPARITY & DISPROPORTIONATE IMPACTS

- DEAUNTE DAMPER, VOCAL-WA, CONVERGE MEDIA
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IN THE BEGINNING

MARCH 1965, PRESIDENT JOHNSON PRODUCED THE LAW ENFORCEMENT ASSISTANCE ACT, WHICH AUTHORIZED THE FEDERAL GOVERNMENT TO TAKE A DIRECT ROLE IN MILITARIZING LOCAL POLICE.

IN 1968, JOHNSON ALSO PRODUCED **SAFE STREETS**, WHERE HE INVESTED \$400 MILLION IN THE WAR ON CRIME AND CREATED LAW ENFORCEMENT ASSISTANCE ADMINISTRATION TO OVERSEE THE FUNDING PRIORITIES:

1. TO SUPERVISE AND SURVEIL LOW-INCOME URBAN COMMUNITIES
2. TO ENFORCE A PROHIBITION ON NARCOTICS IN THOSE COMMUNITIES

ALTHOUGH THOSE COMMUNITIES AREN'T THE ONLY PLACES THAT CRIME AND DRUGS COULD BE FOUND, LOW-INCOME URBAN COMMUNITIES WERE TARGETED

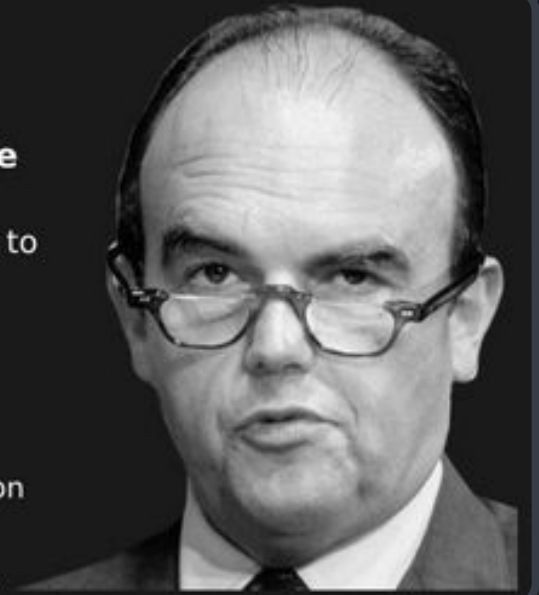
THE ORIGINS OF MODERN U.S. DRUG POLICY AND CARCERAL DISPARITY

WHY THE WAR ON DRUG USERS?

"You want to know what this was really all about? Nixon had two enemies: the antiwar Left, and black people. **We knew we couldn't make it illegal to be either against the war or black.** But by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. **Did we know we were lying about the drugs? Of course we did.**"

-- John Ehrlichman, Counsel and Assistant to US President Nixon

Interviewed in 1992. Full quote in "Truth, Lies, and Audiotape" (2012) by Dan Baum, journalist and author of *Smoke and Mirrors: The War on Drugs and the Politics of Failure*.



BIAS BOTH IMPLICIT AND EXPLICIT CONTRIBUTE TO DISPARITY

- BIAS EMBEDDED WITHIN THE LEGAL SYSTEM FUELS THE MYTH ABOUT THE BEHAVIOR OF BLACK AND BROWN FOLKS STEMS FROM INNATE PERSONAL CHARACTERISTICS RATHER THAN EXTERNAL/CONTEXTUAL FACTORS, AND THUS THEY ARE SEEN AS MORE CULPABLE BY SYSTEMS
- THE "UNEXPLAINED" DISPARITY ANALYSIS BY WSIPP (KNOX 2021) DEMONSTRATES THIS BIAS, BY IGNORING THE GREATER CONTEXT OF THE ENFORCEMENT OF SIMPLE POSSESSION STATUTE IN THE CONTEXT OF THE DRUG WAR.

"RACISM IS THE ROOT OF THE DRUG WAR TREE"

RACIAL BIAS IS THE ONLY POSSIBLE EXPLANATION FOR RACIAL DIFFERENCES IN SENTENCING. RESEARCHERS HAVE ALSO RAISED THE POSSIBILITY OF DIFFERENTIAL ACCESS TO RESOURCES, SUCH AS LEGAL AND PSYCHIATRIC RESOURCES. THE AVAILABILITY TO ARRANGE AND PAY FOR ALTERNATIVE SCHOOLS CONTRIBUTES TO DIFFERENTIAL SENTENCING PRACTICES.

AMERICAN SOCIOLOGICAL REVIEW, VOL. 63, No. 4 (AUG., 1998), pp. 554-570 (17 PAGES), PUBLISHED BY: AMERICAN SOCIOLOGICAL ASSOCIATION

RACIAL DISPARITIES IN PUNISHMENT ALSO EXTEND TO SCHOOL DISCIPLINE. EVIDENCE SUGGESTS THAT STEREOTYPES ABOUT YOUNG BLACK MALES HELD BY TEACHERS AND ADMINISTRATORS (AND POSSIBLY INTERNALIZED BY STUDENTS THEMSELVES) CONTRIBUTE TO DISPARITIES IN DISCIPLINE (FERGUSON, 2000; HORNER ET AL., 2010).

"WARRANTED DISPARITY" RELATED TO DRUG CHARGES IS SYSTEMIC RACISM AND VIOLENCE

- THE IMPLICATION THAT CRIMINAL HISTORY SCORES ARE RACE-NEUTRAL IS FALSE.
- DISPROPORTIONATE ENFORCEMENT AND IMPACT OF DRUG LAWS SINCE THE 1970s HAVE RESULTED IN HIGHER OFFENDER SCORES FOR BLACK AND BROWN PEOPLE.
- DISPARITIES EXIST THROUGHOUT THE SYSTEM AND HAVE BEEN SUSTAINED/ REINFORCED THROUGH POLICY DECISIONS (MUCH LIKE THE PROCESS AND POLICY DECISIONS BEING MADE BY THE SURSAC OR THE BLAKE DECISION).
- CRIMINAL LEGAL SYSTEM INVOLVEMENT IS A SOCIAL DETERMINANT OF HEALTH THAT IS COMPOUNDED BY RACISM THAT DEEPENS HEALTH DISPARITIES, CONFOUNDS AN INDIVIDUALS' ACCESS TO HOUSING, EDUCATION, AND MEANINGFUL CONNECTION TO COMMUNITY AND RESOURCES.

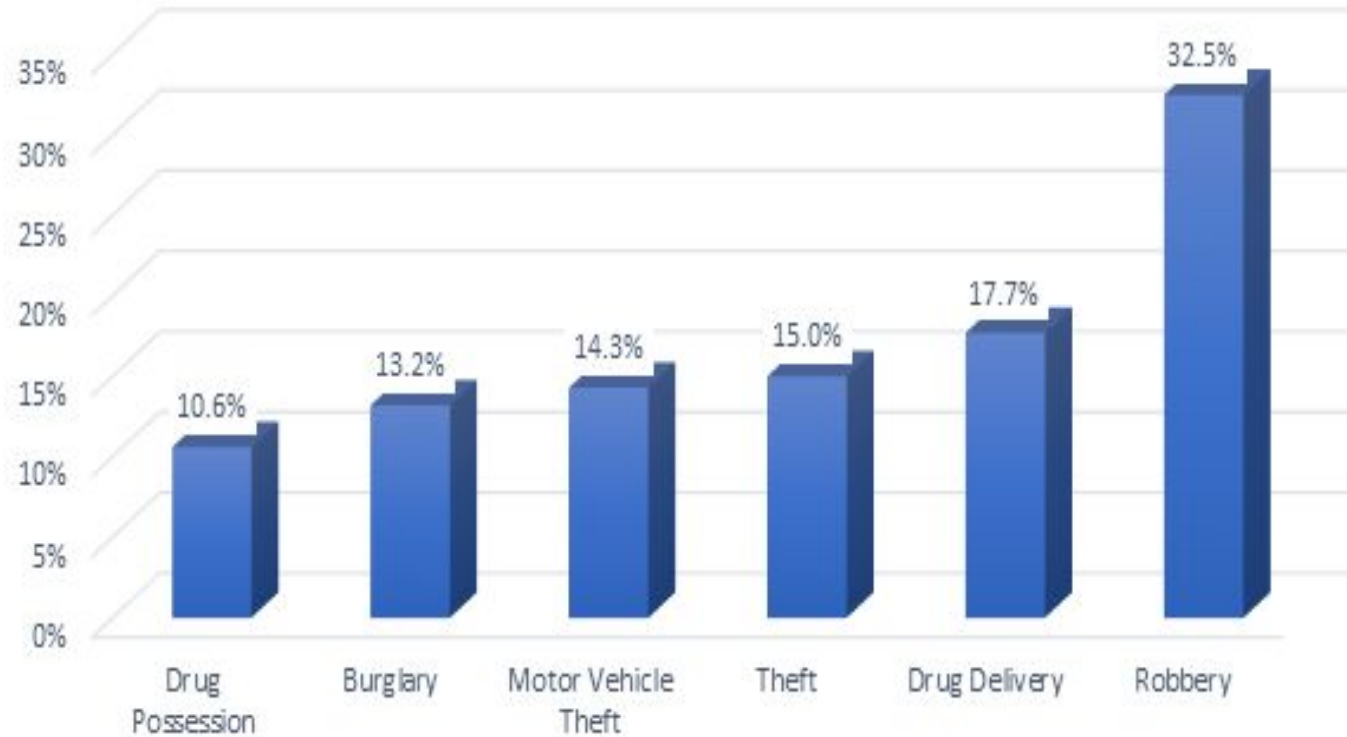
DISPROPORTIONALITY IS A WASHINGTON STATE PROBLEM, TOO.

Washington State has a small African-American population (approx. 3%), yet its prison population aligns with national trends with Black People representing over 25 percent of those incarcerated, 11 times their percentage of the population.

African Americans constitute about 3 percent of the state population; however, 51 percent of those incarcerated for drug offenses are African American. Only four other states have a higher rate than Washington State of incarcerating African-American men.

DECRIMINALIZATION
OF SIMPLE
POSSESSION IS A
START - NOT THE
WHOLE PICTURE.

Figure 1. Share of People Arrested for Drug-Related Offenses Who Are Black, Washington State, 2019



Source: FBI Uniform Crime Report data for Washington State in 2019, accessed here:

<https://crime-data-explorer.fr.cloud.gov/explorer/state/washington/arrest>

Note: The offenses included here are those found to be most consistently linked to substance abuse/addiction.

SIMPLE POSSESSION STATUTE AND ASSOCIATED CHARGES HAVE CAUSED GREAT HARM.

- THE "WAR ON DRUGS" IS NOT CATCHING THE DRUG KINGPINS IT'S INTENDED TO.
- PRISONS ARE FILLED WITH MANY PEOPLE WITH BEHAVIORAL HEALTH ISSUES WHO WERE CONVICTED OF NONVIOLENT LOW-LEVEL OFFENCES.
- FACING CUTBACKS, WASHINGTON STATE OFFERS PEOPLE ALTERNATIVES TO INCARCERATION WITH TREATMENT AS AN OPTION, BUT THE POLICIES AND PRACTICES OF THE STATE ARE NOT BENEFITTING DISENFRANCHISED GROUPS.
- THROUGH THE "WAR ON DRUGS," EMPLOYMENT, HOUSING, AND EDUCATIONAL DISCRIMINATION HAVE BEEN LEGALIZED WITH AN ALREADY MARGINALIZED GROUP SUFFERING THE CONSEQUENCES.
- THE WAR ON DRUGS HAS INFLUENCED THE FACE OF THE PRISON POPULATION AND IS TURNING INTO A LEGALIZED FORMED OF DISCRIMINATION ACROSS THE COUNTRY.

CAMPBELL, CRYSTAL, "THE WAR WITH NO END: SENTENCING DISPARITIES IN THE "WAR ON DRUGS" AND NATIONAL TRENDS THAT ARE DEFINING A NATION" (2013)

"ALTHOUGH A
CRIMINAL
CONVICTION OCCURS
ON ONE DAY IN A
PERSON'S LIFE, ITS
IMPACT IS FELT FOR
THE REMAINDER OF
ONE'S DAYS."
JOHN HUDAK

CRIMINAL LEGAL SYSTEM INVOLVEMENT IS A
SOCIAL DETERMINANT OF HEALTH THAT IS
COMPOUNDED BY RACISM AND STIGMA.

- DEEPENS HEALTH DISPARITIES
- CONFOUNDS AN INDIVIDUAL'S ACCESS TO
HOUSING, EDUCATION, AND MEANINGFUL
CONNECTION TO COMMUNITY AND RESOURCES
- CRIMINALIZATION IS THE ANTITHESIS AND ENEMY
OF RECOVERY

END CRIMINAL
PENALTIES FOR SIMPLE
POSSESSION AND
IMPLEMENT LEAD
STATEWIDE

INVESTMENT IN CARE SYSTEMS THAT WORK ,
INCLUDING RELATIONSHIP-BASED CASE
MANAGEMENT:

- INCREASES HEALTH EQUITY
- IMPROVES HEALTH OUTCOMES
- CONNECTS PEOPLE BACK TO COMMUNITY

WE HAVE AN
OPPORTUNITY TO DO
BETTER:

POLICY CONSIDERATIONS MUST:

- MOVE AWAY FROM THE PROHIBITION- BASED SYSTEM
- STABILIZE AND PROVIDE ACCESS TO APPROPRIATE AND DIGNIFIED HOUSING, LEGAL SOURCES OF INCOME, AND SERVICES WITHOUT DISCRIMINATION
- EXPAND GEOGRAPHIC REACH OF HARM REDUCTION SERVICES
- INVEST IN PEER NAVIGATORS AND PEER WORKERS: NOT JUST THOSE WITH CERTIFICATION, BUT ALL PEOPLE WITH LIVED EXPERIENCE
- INCREASE EQUITY AND RESTORE PEOPLE AND COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE WAR ON DRUGS