

Justice for All?: A comparative look at drug related arrests for Blacks/African Americans and Caucasians since the start of the War on Drugs

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The War on Drugs began as a way to curb what was seen as the nation's "number one enemy"- drug abuse. Policy changes, which began nearly a century ago in the 1930's, have altered the justice system more than anyone could have ever predicted. Overall, arrest rates for drug related violations have skyrocketed; however, minority Black and African American communities have seen higher rates of arrest on drug abuse violations than have Caucasian populations. In order to better understand this reality, this thesis looks at the arrest rates of drug abuse violations, census data, as well as drug usage reports in order to discern just how the justice system is treating this minority population. Data showed the inequality is far-reaching: for every 100,000 residents of both races, 332 Caucasians are arrested on drug-related charges while an overwhelming 879 Blacks/African Americans are arrested. Blindness in the justice system is what the public needs to see in order to continue having faith in it. On the negative side, disparities in it, or any other justice-serving entity, can lead to a lack of trust in the system; however, distrust could also lead to justice reforms which, if made properly, have the possibility of removing some of the racial disparity created and maintained by the justice system.

Drugs first surfaced in the United States over 200 years ago.¹ Opium became hugely popular during the Civil War, the 1880's saw a rise in popularity of cocaine, and morphine was discovered and used medicinally beginning in the early 1900's.² Drugs were openly used to treat minor ailments such as headaches or stomach aches, that is until the Harrison Narcotics Act was ratified.³ This change took place in 1914 as the first effort to curb an increasing epidemic of drug use. Surprisingly, the act was targeted at physicians and pharmacists who were too laxly prescribing and selling to the general population as well as to addicts.⁴

¹ "The United States' War on Drugs". Stanford. Accessed May 2, 2016.
https://web.stanford.edu/class/e297c/poverty_prejudice/paradox/htele.html

² Ibid

³ Brecher, Edward M. 1972. "Chapter 8. The Harrison Narcotic Act (1914)" *Consumer Reports Magazine*.
<http://www.druglibrary.org/schaffer/library/studies/cu/cu8.html> (accessed May 2, 2016)

⁴ Ibid

The Treasury Department created the Federal Bureau of Narcotics in 1930 and Harry J. Anslinger established an extremely punitive drug policy that drastically increased the penalties for marijuana use, eliminated discretion on suspended sentences or probation, limited parole to first time possession offenders, and even allowed the invocation of the death penalty to anyone who sold heroin to a minor.⁵⁶ Several decades later in the 60's, America witnessed the demand for drugs skyrocket. The rebellious "hippie" movement pushed for experimentation with marijuana, some even went so far as to expand their "knowledge" through hallucinogens such as LSD. In the late '60's the Johnson Administration made an effort to curb the rise in drug use, but the funding was limited and had little to no effect.

The drug front was rather silent until a 1971 Congressional report revealed some disturbing news: 15% of active service men in the Vietnam War were addicted to heroin.⁷ A horrified public pushed the President Richard Nixon into action to help fight the "War on Drugs" with the hopes of spurning the increased drug use and drug related violence he felt the nation faced. He believed that all efforts to intervene and eradicate the drug supply lines would be fruitless unless the problem of addiction was dealt with, "as long as there is a demand, there will be those willing to take the risks of meeting the demand."⁸ Despite understanding this concept, Nixon focused his efforts on other areas of the "war," such as controlling the Mexican border to

⁵ "The United States' War on Drugs". Stanford.

⁶ McWilliams, John C. 1990. *The Protectors: Harry J. Anslinger and the Federal Bureau Of Narcotics, 1930-1962*. Newark: University of Delaware Press

⁷ Spiegel, Alix. January 2, 2012. "What Vietnam Taught Us About Breaking Bad Habits." NPR. Accessed May 2, 2016. <http://www.npr.org/sections/health-shots/2012/01/02/144431794/what-vietnam-taught-us-about-breaking-bad-habits>

⁸ Sharp, Elaine B. 1994. *The Dilemma of Drug Policy in the United States*. New York, NY: HarperCollins College Publishers

keep the drugs from even entering the US, a plan of attack that ended in the drug trade shifting from Mexico to Guatemala.

President Carter's efforts were no better, as his presidency witnessed "the demand for cocaine [increase] as much as 700 percent in just six years."⁹ Additionally, although Carter called for the decriminalization of marijuana stating, "penalties against possession of the drug should not be more damaging than the drug itself,"¹⁰ state and federal governments began to move away from this based on the connection marijuana had to cocaine as its feeder drug.¹¹

President Ronald Reagan, like Nixon, was also a proponent of fixing the drug problem from the addiction side rather than the supply side, "We seek to create a massive change in national attitudes which ultimately will separate the drugs from the customer, to take the user away from the supply."¹² and like Nixon, he did not follow this through. Instead, the average annual funding for "eradication and interdiction programs" increased by 220% while funding for "education, prevention, and rehabilitation" was cut by \$24 million.¹³ He focused on a zero-tolerance policy where the drug user was given full accountability and punitive measures were strictly enforced. Proceeding Democratic and Republican presidents alike continued to follow supply-sided drug policies. Of course, Presidents were not the only ones making decisions in this area. Congress too played a large part in the development of drug policies. They successfully

⁹ "The United States' War on Drugs". Stanford.

¹⁰ Rosenberger, Leif R. 1996. *America's Drug War Debacle*. Brookfield, VT: Ashgate Publishing Co.

¹¹ Graham, David. April 14, 2014. "Are Pot Reformers Too Optimistic? The View From 1977" *The Atlantic*. <http://www.theatlantic.com/politics/archive/2014/04/are-pot-reformers-too-optimistic-the-view-from-1977/360441/>

¹² Reagan, Ronald. September 14, 1986. "Campaign on the War on Drugs". *PBS*.

<http://www.pbs.org/wgbh/americanexperience/features/primary-resources/reagan-drug-campaign/>

¹³ Rosenberger, Leif R. 1996..

fought off a push under the Clinton era to shift drug policies to a more rehabilitative and preventative path.

The War on Drugs began as a way to combat the "number one enemy"--drug abuse. Overall, research shows there have been significant increases in arrests regarding drug abuse violations, defined as "state and/or local offenses relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs including opium or cocaine and their derivatives, marijuana, synthetic narcotics, and dangerous nonnarcotic drugs such as barbiturates"¹⁴ since the beginning of the War on Drugs; however, minority Black and African American communities have seen higher rates of arrest on drug abuse violations than have Caucasian populations due to these changes.

Methodology:

The focus of the study is to analyze how arrest rates for drug abuse violations have not only increased due to the War on Drugs, but also highlight how this data shows Blacks/African Americans are experiencing unexplainable higher arrest rates than Caucasian populations. This concept is broken down into several questions in order to identify the full effect of the War On Drugs legislation, these being:

- (1) What does the overall arrest rate look like for drug abuse violations? Has it increased, decreased, or stayed the same?
- (2) Breaking down these violations by race, how does this play out? How do the percentages compare to the US population makeup?

¹⁴ FBI Uniform Crime Reports. <http://www.bjs.gov/content/DCF/enforce.cfm>

(3) Finally, what do drug related arrests look like when comparing them to drug useage? Are they proportional?

To examine these questions, an analysis and compilation of data from several federal databases were conducted. The Federal Bureau of Investigation's Uniform Crime Reports (FBI UCR) served as the greatest wealth of data since they have been tracking crime since their inception in 1929 in order to "to meet the need for reliable uniform crime statistics."¹⁵ They systematically organize and publish the data provided "from over 18,000 city, university/college, county, state, tribal, and federal law enforcement agencies"¹⁶ Each year's arrest statistics were separated into different reports, and therefore for the purpose of this study, they were sought out, collected, and combined into one chart. This chart formed the estimated arrests of drug abuse violators from 1980-2014. This is the broadest date range of data available, despite some charts listing figures from as early as the 1970's, as no reliable information for those years was found through the FBI UCR or Bureau of Justice Statistics (BJS).

After collecting and plotting the arrest patterns for all drug abuse violations, the process was repeated for arrest patterns broken down by race. Unfortunately, the greater the specifics sought, the less available data became. This made finding the same 1980-2014 arrest rate range by race impossible, as data only covered 1990-2014. Categories for race were: Caucasian, Black/African American, Native American, and Asian/Pacific Islander (with the last two serving purely as comparison.) From 1990-2014 both the number of arrests for each population as well as the percentage of total arrests that population held for each year was recorded. Census figures

¹⁵ FBI. Uniform Crime Reports. *FBI*. <https://www.fbi.gov/about-us/cjis/ucr/ucr> (accessed May 2, 2016)

¹⁶ *Ibid*

came from the US Census Bureau decennial reports. Data from three reports were collected (1990, 2000, and 2010) in order to span the same period as the rest of the data.

The last question to research was that of drug use by race. The FBI and BJS do not focus on this particular aspect of crime; however, a branch of the Department of Human Services does - The Substance Abuse and Mental Health Services Administration. The SAMHSA was created by Congress in 1992 in order "to make substance use and mental disorder information, services, and research more accessible."¹⁷ One of the areas of research conducted by this organization is through surveying the habits of the US population, such as the use of illicit drugs. For the purpose of this study, data on the habits of illicit drug use (amphetamine-type steroids, cannabis, cocaine, heroin and other opioids, and MDMA aka ecstasy) of Caucasians and Blacks/African Americans was collected. Unfortunately, again the data does not span the same time frame as the arrest rates of drug abuse violators. However, they do have data nearly a decade's worth of annual data available, broken down by race, which will help answer the final research question.

Results:

An analysis of the collected data showed several emerging trends: (1) the overall arrest rate for drug abuse violations has significantly increased since the 1980's; (2) when broken down by race, Caucasians experience not only the highest arrest rates and therefore account for the majority percentage of the arrest distribution, followed by Blacks/African Americans; and lastly (3) there

¹⁷ Substance Abuse and Mental Health Services Administration. "About Us" SAMHSA. <http://www.samhsa.gov/about-us> (accessed May 2, 2016)

is roughly a 1% difference in illicit drug usage between Blacks/Africans and Caucasians, with the former being slightly more likely to have used than the latter.

Increasing Drug Abuse Violation Arrest Rates

From 1980 to the peak arrest period in 2006, the estimated number of arrests for all drug



abuse violations increased a whopping 225%. If there was ever a doubt the War on Drugs has an effect, here is the proof that it does (perhaps not the intended effect, but an effect all the same.) Historically speaking, the War on Drugs progressed

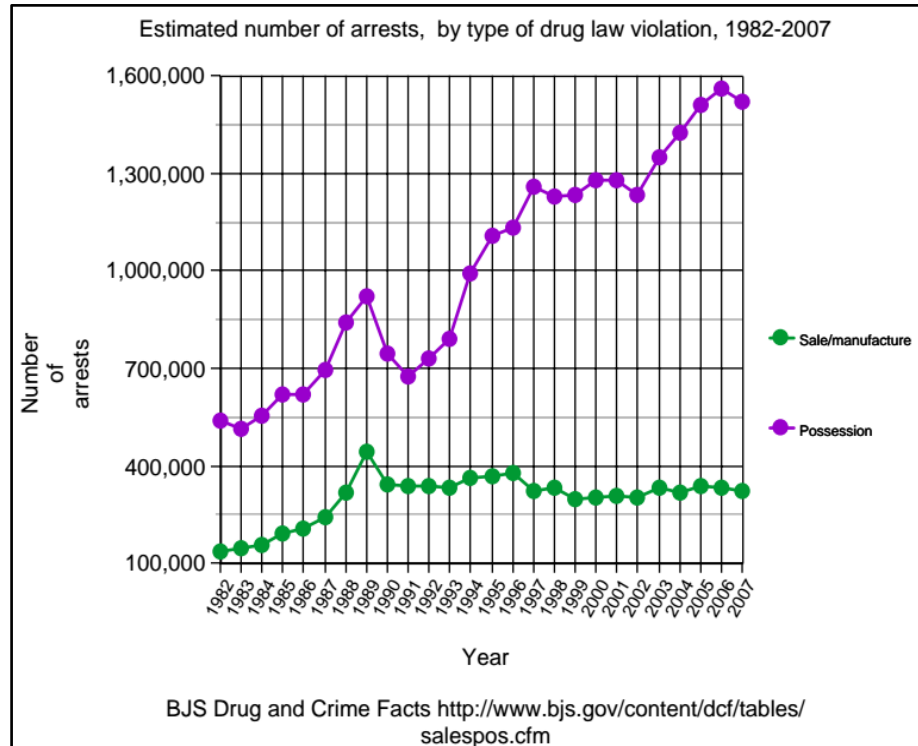
in a user-punishment orientation, rather than an education and rehabilitation fashion. The chart above shows exactly what that shift looks like for users.

Interestingly enough, when the term “drug abuse violation” is broken down into the two categories possession and manufacture/sale, possession have made up the vast majority of arrests (see figure below.) In in modern days, the Federal Government asks for billions of dollars in funding in order to fight against drug abuse, over half of which is devoted to eradicating the

supply line.¹⁸ This trend is shown in the graph below, one that also indicates the skyrocketing budget requests and allocations made since since the “war’s” start in the 1970’s.¹⁹

Drug Abuse Violation Arrests by Race

Research indicates Blacks/African Americans are more likely to be arrested than are Caucasians, but they do not make up the majority of the arrests. Indeed, from

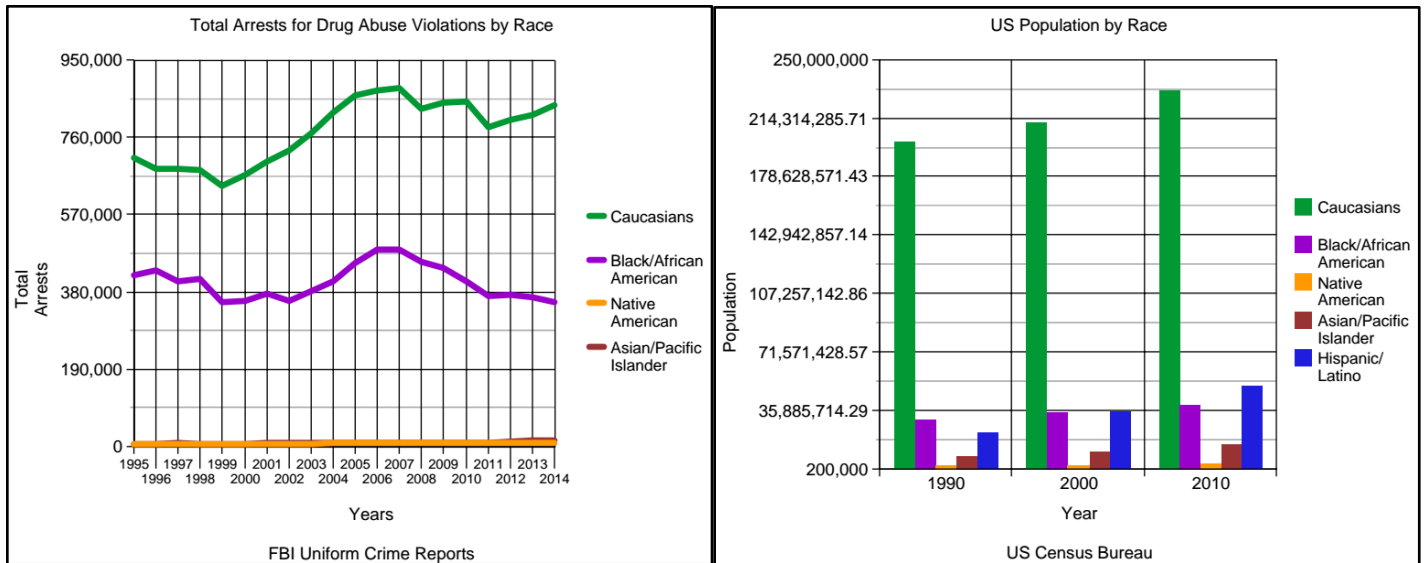


1995-2014, Caucasians accounted for nearly double the total arrests for drug related violations, averaging a distribution of 64.7% of the arrests while Blacks/African Americans average 33.9%. To reiterate, over the past twenty years, the US has averaged a total of 1,193,696 drug abuse violation arrests, meaning of the 1.19 million arrests, on average 772,321 Caucasians and 404,663 Black/African Americans were arrested. These numbers, however, gain greater significance when compared to the entire US population’s racial makeup.

¹⁸ Ibid

¹⁹ Drug Policy Alliance. February 2015. “The Federal Drug Control Budget: New Rhetoric, Same Failed Drug War.” http://www.drugpolicy.org/sites/default/files/DPA_Fact_sheet_Drug_War_Budget_Feb2015.pdf

In 1990, the United States conducted its decennial census and it reported Caucasians made up 80.3% of the population while Blacks/African Americans made up 12.1%. Statistically speaking, the greater a population, the greater the odds. Therefore, a significantly larger Caucasian population means more total members more susceptible to drug-related arrests than the Black/African American population, a theory that is played out in the data previously mentioned. However, there should also be a sense of proportionality based on population makeup and number of arrests both groups experience (as long as both populations are equally as likely to use illicit drugs.)



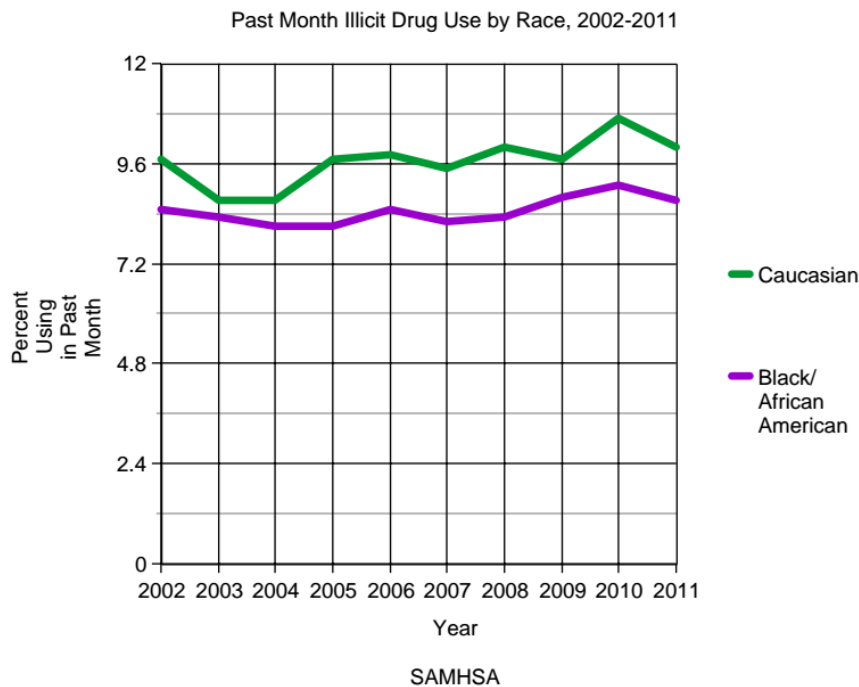
Illicit Drug Use

The Substance Abuse and Mental Health Services Administration (SAMHSA) is responsible for tracking illicit drug use. Their data shows shows, from 2002-2011, Caucasian and Black/African American illicit drug use was fairly similar. In fact, over that ten year period, an estimated 8.5% of Caucasians and roughly one percent more of Black/African Americans (avg. 9.7%) had recently

used an illicit drug. The discrepancy between frequency of illicit drug use does not make sense when considered in context with the previous data.

Discussion:

Each portion of data does not make as much sense on its own; however, once combined, the



inequality in drug abuse violations becomes apparent.

Data collected for the FBI UCR and the BJS show Caucasians make up roughly two thirds of drug-related arrests, while Blacks/African Americans make up the other third. Although Caucasians

make up the vast majority of the US population (80.3% in 1990, 75.1% in 2000, and 72.4% in 2010,) the percentage of arrests made up by Caucasians does not get close to being proportional.

Black/African Americans experience the same lack of proportionality, but in the opposite way: while making up roughly 12% of the population in census years 1990, 2000, and 2010, Black/African Americans average over a third of the arrests. An easier way to see this is for every 100,000 residents of both races, 332 Caucasians are arrested on drug-related charges while an overwhelming 879 Blacks/African Americans are arrested, almost three times as many. Some might say these figures are indicative of greater substance abuse in the latter population.

However, the SAMHSA says otherwise. In their 2013 report, they cited a 9.5% Caucasian user population and a 10.5% user population. A difference of 1% is hardly statistically significant enough to support such a distinct difference in arrests.

In 1995, Patrick A. Langan, a senior statistician with the Bureau of Justice Statistics, analyzed the “racial disparity in connection with drug arrests.”²⁰ The goal of his analysis was to investigate a 23 point disparity between Black/African American drug arrests and drug usage. He wrote about three possible reasons for the inequality stating (1) they are 4% more likely to use a drug that has higher arrest rates associated with it, (2) a greater portion of the population uses on a more regular basis than Caucasians, and (3) they are more likely to reside in metropolitan areas than Caucasians, a local that has a higher arrest rate. He concluded his study by stating 10 of the 23 disparity points he was investigating could be attributed to race-neutral factors. “The analysis leaves unexplained 13 percentage points... Perhaps the 13 percentage points or some portion of them reflect a practice of police unjustifiably over-arresting blacks....”²¹

This inability to justify the difference in arrest rates should cause great concern. If African Americans/Blacks are experiencing such high rates of arrest for drug-related violations, what would happen if arrest rates for a wider range of violations were compiled and compared by race? Would a similar disparity become apparent? In fact, a study published in the *Journal of Contemporary Criminal Justice* found, “about 30% of Black males have experienced at least one arrest by age 18 (vs. about 22% for White males); by age 23 about 49% of Black males have been

²⁰ Langan, Patrick A. October 1, 1995. “The Racial Disparity in U.S. Drug Arrests” *Bureau of Justice Statistics*. <http://www.bjs.gov/content/pub/pdf/r dusda.pdf> (accessed May 2, 2016)

²¹ Ibid

arrested (vs. about 38% for White males).”²² If the justice system in the US, from the police (who are more likely to stop an African American/Black person than they are a Caucasian person)²³ all the way to the court system (which has higher sentencing rates for African American/Black individuals than it does for Caucasians,)²⁴ so easily identifies a person’s race with their innocence or guilt, that system is no longer fair. Blacks/African Americans are not the only minority population experiencing a disparity. Hispanics and Native Americans are also more likely to be arrested than Caucasians, they are paroled at two times their rate, and they are two and four times likely to be sentenced to prison (respectively.) According to the official government website of the the US Court system, “The U.S. Courts were created under Article III of the Constitution to administer justice fairly and impartially...”²⁵ The statistics provided through this analysis alone show the U.S. Court system no longer following its Constitutional duty to act fairly and impartially.

Where do we, as a nation, go from here? Our justice system is corrupt as it is unable to treat fairly and more important equally, those who go through it. For those who are aware of this disparity, they might experience growing distrust for the court system. Afterall, if race can determine one’s sentence length or parole release date, what else is affecting the pursuance of justice? More broadly, how is this inequality affecting the culture and society outside of the court system?

²² Mears, Daniel P., Joshua C. Cochran, and Andrea M. Lindsey. February 2016. “Offending and Racial and Ethnic Disparities in Criminal Justice: A Conceptual Framework for Guiding Theory and Research and Informing Policy.” *Journal of Contemporary Criminal Justice*. Vol. 32 no. 1 78-103

²³ CCR Reports: Racial Disparity in NYPD Stop and Frisks. January 11, 2010. *Center for Constitutional Rights*.<http://ccrjustice.org/home/get-involved/tools-resources/inside-ccr/ccr-reports-racial-disparity-nypd-stop-and-frisks>

²⁴ Mauer, Mark and Ryan S. King. July 2007. “Uneven Justice: State Rates of Incarceration By Race and Ethnicity.” *The Sentencing Project*. <http://www.sentencingproject.org/wp-content/uploads/2016/01/Uneven-Justice-State-Rates-of-Incarceration-by-Race-and-Ethnicity.pdf>

²⁵ “About US Courts.” *United States Courts*. <http://www.uscourts.gov/about-federal-courts>

How much, if any, is this racial inequality seep into aspects of daily life? Already, there is racial gap between high school graduates (11.4% gap between between Hispanic and white students and a 15.9% gap between black and white students.)²⁶ Knowing there is a negative correlation between education and likelihood of criminal activity, how might this affect or be affected by the racial inequality witnessed in the justice system? Regrettably, this is not just a problem that will remain isolated in the justice system, it is one which affects the racial equality in society, public views on the legitimacy of the justice system, trustworthiness of our justice entities such as the police, judges, even US laws. Fortunately, there are already organizations as well as everyday people calling for more oversight of the justice system, drug violation reform, etc. These changes are greatly needed and if made properly, have the possibility of removing some of the racial disparity created and maintained by the justice system.

²⁶ Common Core Data. 2015. *Department of Education*. http://nces.ed.gov/ccd/data_tables.asp