

Latino/a Mass Incarceration in Wisconsin in relation to the “War on Drugs”



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Abstract

Michelle Alexander, in *The New Jim Crow*, argues that the American legal system is a racial caste system maintained by unequal drug laws, what she terms, “The New Jim Crow” laws. This essay explores the limits of her thesis in relation to Latino/a population in the United States. Specific attention is paid to the Latino/a population in Wisconsin where racial disparities in the penal system are the greatest in America. Analysis of government data suggests that Alexander’s research reproduces the tendency of the American legal system to define race in binary terms: black and white. In effect this leaves Latino/a Americans without accurate representation within the American legal system.

The “War on Drugs”

Historically, the “whiteness” of a drug has been shown to have a very strong correlation with its legality. For example:

- Anti-drug laws for opium, at the time considered an oriental drug, were enacted around the 1870s and targeted for Chinese American immigrants
- When marijuana was first introduced into the United States was considered a Mexican drug and therefore around the 1910s and 20s anti-marijuana laws were put in place in the Midwest and the South.
- Crack-cocaine, the most addictive form of cocaine that is smokable, was considered to be an African-American drug and anti-cocaine laws in the 1900s clearly had harsher convictions for crack-cocaine than pure powder cocaine.

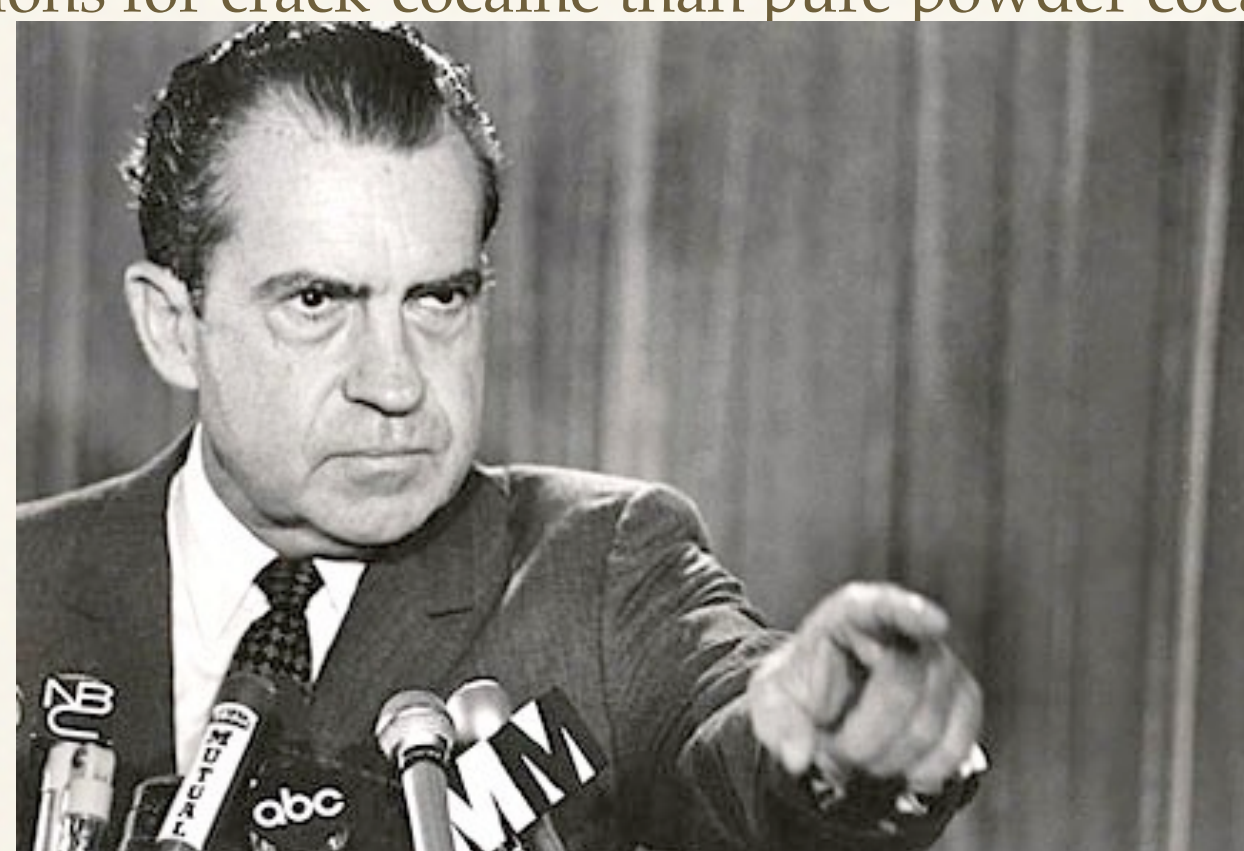


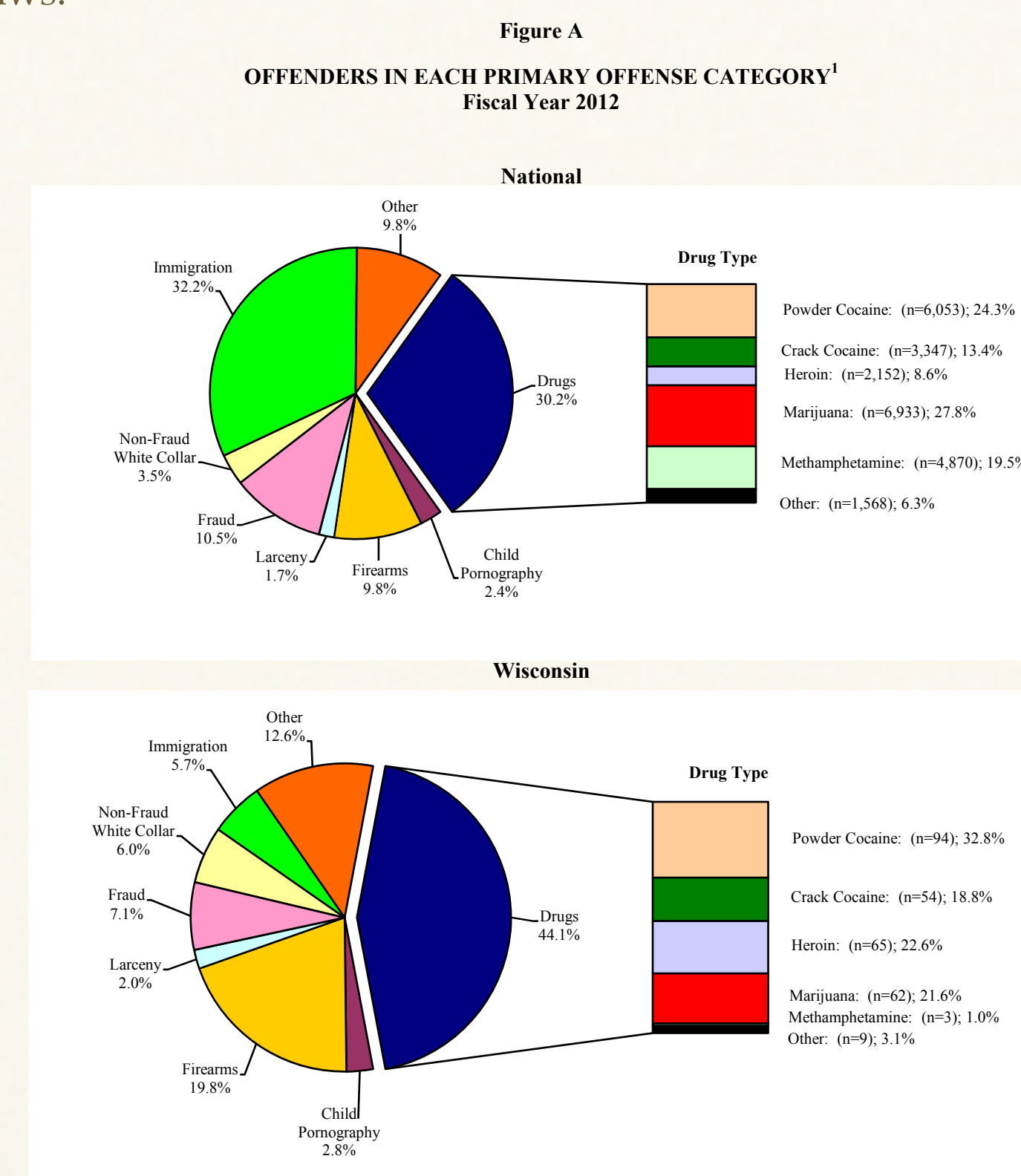
Figure 1. Photograph of President Nixon who first gave birth to the War on Drugs in an effort to win the votes of Southern Democrats.

Why Wisconsin?



Figure 2. Graph from New York Times article, “Reports Find Racial Gap in Drug Arrests”

It is important though that we take into consideration why we will be focusing on the state level as opposed to the federal level. First off, drug abuse and control has always been the responsibility of the State and the federal government only just recently intervened with the policies that accompanied the “War on Drugs.” As Figure 2 shows, different states have vastly different racial disparities which demonstrates, contrary to Alexander’s view, that drug control is still largely in the hands of the state authorities. Secondly, if in fact mass incarceration is “The New Jim Crow” than it is even more important to remember that a reason that the Jim Crow laws were so difficult to abolish is because they operated largely at the state level. This is why even though federal policies to remove Jim Crow were enacted it took so long to fully rid the nation of the segregationist laws.



The Government Data for Latino/a proves Inconclusive

Although all the research about Wisconsin’s racial disparities did seem to be conclusive the research seemed to, much like Alexander, only focus on one minority group: African Americans. Is it very accurate for a national newspaper like the New York Times to report a racial gap in drug arrests, yet only include data for African Americans when the United States Census has reported that Latino Americans are the largest growing minority? With this in mind, I consulted the five major databases from the Bureau of Justice Statistics (BJS), the United States Census Bureau, the Wisconsin State Department of Corrections (D.O.C.), the State Legislative Fiscal Bureau, and lastly the Source Book of Federal Sentencing for evidence for Latino incarceration statistics with special attention to drug arrests.



Race and Ethnicity	Exhibit B-1 July 1, 2012, Prison Population		Exhibit B-2 2011-12 Prison Admissions		Exhibit B-3 2011-12 Prison Releases	
	Male	Female	Male	Female	Male	Female
White	9,483	44.2%	770	61.9%	4,524	38.2%
Black	9,196	42.8%	339	27.3%	557	56.3%
Hispanic	1,953	9.1%	56	4.5%	4,399	37.5%
Native American	388	2.7%	46	3.5%	852	7.3%
Asian	209	1.0%	11	0.9%	289	2.5%
No Data	37	0.2%	0	0.0%	71	0.6%
Total	21,466	100.0%	1,245	100.0%	11,759	100.0%

Figure 3. This is a chart from the Wisconsin Adult Corrections Program Information Paper 56.

The United States Census Bureau and the BJS both proved to be inconclusive, in respect to Latino drug violation data. However, the Wisconsin Department of Corrections did at least provide some information, although it was not particularly useful. They reported that for Males 53% were White, 43% were Black, 3% were American Indian or American Native, and 1% were Asian or Pacific Islander. Additionally, for females they reported 65% were White, 29% were Black, 5% were American Indian or American Native, and finally 1% were Asian or Pacific Islander. Of all of these totals they reported 9% were of “Hispanic Origin” (cite D.O.C.). Although they did include a statistic that was inclusive of the Latino/a population, it is a bit troubling that the D.O.C did not even bother to at least divide Latino by gender like the rest of the percentages. Furthermore, this data is still somewhat inconclusive because the D.O.C did not also specify which races were the ones to indicate they were of hispanic origin creating even more ambiguity among the skewed data.

Conclusions

When research for Latino Americans and drug abuse was attempted to be gathered there was a huge absence of data. This lack of data has a deeper significance within legal context. It exposes how America only recognizes race as a white and black binary leaving other minorities lost in between without accurate representation. Latino/a Americans are particularly affected by this paradigm because they can legally identify themselves as “white” or “black.” Empirical government data and Alexander’s work lead to an underrepresentation of the Latino American community and purport race as a White/Black binary in the legal system.



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For further information

Please contact me Ricardo.Diaz@marquette.edu for a list of references and related work.

