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**FROM NIXON'S WAR ON DRUGS TO
OBAMA'S DRUG POLICIES TODAY:
PRESIDENTIAL PROGRESS IN
ADDRESSING RACIAL INJUSTICES
AND DISPARITIES**

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Abstract: This study investigates presidential progress in addressing racial injustices and disparities within the context of the war on drugs. I argue that racial inequalities emanating from the war on drugs have been largely overlooked and at times aggravated by previous administrations. Although there have been some improvements in this regard since President Obama took office, more extensive policy reforms are needed to better remedy such inequalities. I also argue that the viability of a progressive presidency for racial justice vis-à-vis U.S. drug policies depends not only on the personal agenda of the president but also on a supportive public as well as a progressive legislature and judiciary that share the ideals for engendering a more egalitarian system.

Keywords: war on drugs; racial disparities; progressive presidency; Barack Obama

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Since President Richard Nixon declared a “War on Drugs” in 1971, billions of dollars have been spent to reduce drug use and drug-related crimes in the United States. Nevertheless, after 40 years of struggle, the drug war is far from over. Instead, in addition to being extremely costly and largely ineffective, the war on drugs has resulted in stark racial injustices and disparities that haunt U.S. society. Highly punitive and selectively enforced policies that mainly target minorities have transformed the war on drugs into a war on minorities and immigrants, leading to a staggering number of imprisoned minorities (thereby resulting in their temporary or permanent disenfranchisement), severe grievances among minority communities, broken families, and inexorable socio-economic inequalities. Consequently, the war on drugs has contributed to a vicious cycle of poverty and crime, which has partly muted the achievements of the civil rights movement and largely undermined the essence of egalitarian democracy.

Within the context of U.S. drug policies from the time of Richard Nixon's presidency to that of Barack Obama, this study investigates the prospects for a progressive presidency toward addressing racial injustices and disparities. I argue that racial injustices and disparities emanating from the war on drugs have been largely overlooked and, even worse, aggravated by previous administrations. With President Obama taking office, there have been some significant improvements in addressing the issue of discriminatory drug policies. Nevertheless, more extensive policy reforms and structural changes are necessary to more effectively remedy such inequalities. Furthermore, I argue that the possibility of a progressive presidency for racial justice in this regard depends not only on the personal agenda of a sitting president seeking systemic reforms for a more egalitarian system, but also on a supportive public as well as a progressive legislature and judiciary that all share these ideals, which will aid the passage of such policy reforms into law.

The study proceeds as follows. I first discuss the evolution of the ongoing political discourse, which targets and criminalizes minority and immigrant populations as a byproduct of the war on drugs. I next discuss the issues of racial profiling in drug interdiction, as well as racial disparities in incarceration rates and in sentencing outcomes vis-à-vis drug-related offenses. With all of these considerations in mind, I then evaluate presidential progress in addressing racial injustices and disparities that originate from U.S. drug policies and identify issues and areas that require further improvement and reform in order to eliminate such inequalities.

MORPHING OF THE “WAR ON DRUGS” INTO A “WAR ON MINORITIES AND IMMIGRANTS”

Since the launch of the campaign for the war on drugs, public opinion in the U.S. has been largely shaped by news stories from popular media and reports from law enforcement agencies that depict certain minority groups as being associated with the use, transportation, distribution, and sale of illicit drugs and thus responsible for the country's "drug problem" (Cook & Hudson, 1993; Hawkins, 1995; Tonry, 1997). As such, the war on drugs is open to be interpreted and fought as a war on minorities and immigrants (see Provine, 2007; Staudt et al., 2009).

The construction and reinforcement of such perceived links between drug crimes and minority and immigrant populations has a long history. Back in the 19th and early 20th centuries, Chinese immigrant workers in the U.S. were stigmatized as opium smokers. More recently, particularly since the 1980s, there have been many instances where African Americans have been stereotyped as street dealers of various drugs, primarily crack cocaine. In addition, the issue of illegal Latino/a immigration is often discussed in connection to the issue of drug trafficking.

Pundits and others who have shaped the public discourse on the "criminal minority/immigrant" often refer to criminal justice statistics that show a noticeable overrepresentation of minorities involved in criminal activities, especially with respect to drug dealing and trafficking in the United States. However, what is often left out of the discussion is that this overrepresentation of minority involvement in drug-related crime reflects, to a great extent, selective law enforcement. As Gabbidon (2010a) points out, if a state attempts to crack down on a given crime by targeting communities heavily populated by minorities, then statistics will distort the nature and scope of the crime problem. Consequently, "the crime problem" is translated into the "minority crime problem" via selective enforcement of the law.

In attending to the perceived link between race/ethnicity and illegal behavior embedded in the public discourse, a large number of studies explore the role that the media plays in the racialization of crime (see Barak, 1994; Barlow, 1998; Entman, 1992; Hurwitz & Peffley, 1997). Among these studies, some focus on print and television news media (e.g., Barlow, 1998; Dixon, 2008; Entman, 1992), while others look at the portrayal of racial minorities in television dramas and reality-based television police shows (e.g., Eschholz, 2003; Oliver, 1994). These studies have led to a scholarly consensus that media outlets perpetuate crime-related and other negative views of racial/ethnic minorities, which in turn reinforce the exclusionary attitudes and practices targeting these groups and contribute to the development of punitive policies that inordinately affect such groups. For instance, Entman (1992; summarized in Brennan & Spohn, 2009) finds that media depictions of criminal activity by African Americans are significantly more likely to (1) emphasize violence and drug crimes, (2) highlight racial/ethnic differences between the offender and the victim, and (3) show African Americans in police custody accompanied by a mug shot. Latinos similarly suffer from such biased media representations.

Amid the prevalence of the “criminal minority/immigrant” stereotype, right-wing ideologues have also been increasingly associating immigrants and minorities with criminal activity as a means to push a hard line policy agenda concerning immigration. Indeed, it is not uncommon for political pundits such as Ann Coulter and Rush Limbaugh to openly use racially-charged rhetoric regarding drug-related and other criminal activities in their public commentary. For instance, in addressing the debate over border security versus civil rights concerns, Rush Limbaugh has asserted that “You got Hezbollah in Arizona, you got Mexican drug cartels operating in Arizona, you got a steady stream of illegals over the border and you've got people being killed now in Arizona. They are at their wits' end. Enforcing the law is the overall thing and if there are some civil rights violations, so be it” (Limbaugh, 2010). With a similar mindset, Ann Coulter has argued that “Ethnic profiling is the only reasonable security measure” for protecting the homeland (Coulter, 2002). Meanwhile, the Republican Party, as the main party representing the right-wing conservative ideology in the U.S., often attempts to rebuke claims of racism, particularly regarding its stance on immigration and drug policies whenever anyone associated with the party says something controversial. More recently, the emergent Tea Party movement has served as a more conservative off-shoot of the Republican Party and has levied even more severe charges of racial bias concerning issues of immigration and drug crimes (see Williamson et al., 2011).

In this political climate, the “criminal minority/immigrant” stereotype has been used by select politicians to push what may be considered nefarious legislation (Gabbidon, 2010b). One recent example is the controversial Arizona immigration law S.B. 1070 signed by Governor Jan Brewer on April 23, 2010, which was designed to identify, prosecute, and deport illegal immigrants in the state. According to this law, failure to carry immigration documents would be a crime and the police would have enhanced powers to detain anyone suspected of being in the country illegally. As the details of the law became publicized, serious concerns arose about potential acts of harassment and discrimination against minorities, particularly those belonging to the Latino/a community.

In response, President Obama announced that his administration would closely examine the implications of the Arizona law, especially with regards to civil rights. He commented at the time that “in the United States of America, no law-abiding person—be they an American citizen, a legal immigrant, or a visitor or tourist from Mexico—should ever be subject to suspicion simply because of what they look like” (White House, 2010). Soon after, the Obama administration filed a lawsuit against Arizona in federal court in an effort to prevent the law from taking effect.

Subsequently, U.S. District Judge Susan Bolton blocked the most contentious sections of Arizona's immigration enforcement law; primarily, the provisions that allowed for police officers to check a person's immigration status while enforcing other laws and that required immigrants prove that they were authorized to be in the country to avoid state charges. She also issued an

injunction against the provision that would have allowed warrantless arrests of suspected illegal immigrants. Bolton stated that, “There is a substantial likelihood that officers will wrongfully arrest legal resident aliens. By enforcing this statute, Arizona would impose a ‘distinct, unusual and extraordinary’ burden on legal resident aliens” (see Archibold, 2010).

RACIAL PROFILING IN DRUG LAW ENFORCEMENT

The controversy about Arizona’s immigration law largely revolves around the issue of racial profiling, which may be defined as the use of race and ethnicity as the determinant criteria in law enforcement decisions to stop, search, arrest, or investigate a person without any indications of suspicious or illegal behavior (see Glover, 2009; Gross & Livingston, 2002; Higgins et al., 2010). At the core of such racialized law enforcement decisions is the stereotypical belief that certain ethnic groups are more likely than others to commit certain types of crimes. Through racial profiling, an officer applies law enforcement measures not as a reaction to an individual’s actions but based on a prediction rooted in aggregate, ascriptive reasoning (Pap, 2007).

With regards to the war on drugs, the issue of racial profiling has been an intrinsic aspect of law enforcement practices. In fact, the practice of racial profiling is closely tied to the Drug Enforcement Agency (DEA), which developed the profiling of drug couriers during the mid-1980s to interdict interstate drug trafficking (Farrell & McDevitt, 2010). The profile included drug trafficking clues such as point-to-point driving patterns, indications of the concealment of contraband in vehicles, short stops between significant drug sources and distribution locations, cash-paid airline tickets, certain behavioral cues, as well as indications of race, age, and gender characteristics of potential traffickers (Pap, 2007). Even seemingly race/ethnicity neutral indicators mentioned in the profile (such as driving from south to north in a rental car) might in fact inordinately identify members of a particular racial/ethnic group (Engel & Johnson, 2006). The racial/ethnic profiling practice was further justified by the official and media discourse, which perpetuated the notion that most organized crime gangs tend to be ethnically homogenous (Pap, 2007). The profile was included in the DEA’s training for local and state law enforcement, and approximately 27,000 law enforcement officers received the training nationwide (Harris, 2002).

Since its inception in the law enforcement system, the legitimacy and effectiveness of racial profiling have been widely questioned and highly criticized, particularly with regards to drug interdiction. Most importantly, numerous studies have demonstrated that there is no significant ascribed link between race/ethnicity and the propensity to engage in criminal activity, including drug crimes (see, for example, Banks, 2003). Furthermore, many scholars and commentators point out that “fishing” for drug couriers “in the immense stream of cars on interstate highways is a hopeless strategy for eliminating drug trafficking” (Gross & Livingston, 2002:1431).

Proponents of racial profiling in drug interdiction often try to justify the practice by claiming that racial disparities in rates of arrest and conviction for drug crimes simply correspond to racial differences in criminal behavior. However, due to the highly discretionary nature of drug law enforcement, rates of arrest and conviction often reflect racialized investigation and enforcement decisions (see Banks, 2003). According to the “self-fulfilling prophecy” argument, law enforcement outcomes used to justify racial profiling may, in fact, be the consequence of racial profiling, thus creating the appearance of racial differences in criminality even when there are no such differences (see Johnson, 2000). Several scholars also point to the absence of any significant differences regarding the proportional hit rate as it applies to the Anglo population versus minority populations even though the authorities habitually stop an inordinate number of minority drivers (see, for example, Harris, 2002).

One consequence of racial profiling is the loss of trust and confidence among the public (particularly among minority communities) in the criminal justice system (see Peffley & Hurwitz, 2010). Farrell and McDevitt (2010) point out that if members of certain communities perceive that they are unfairly targeted by law enforcement, they may be less cooperative and more reluctant to report crimes or assist police with criminal investigations (see also Pap, 2007). Racial profiling can also aggravate levels of hostility in encounters between minority citizens and law enforcement officers, thereby increasing the chances that routine encounters will escalate into aggression and conflict (see McCluskey et al., 1999).

Racially-biased law enforcement also instigates tensions among different groups and promotes a divided society through the accumulation of racial/ethnic grievances. Legitimizing and reinforcing racist and ethnic stereotyping in a society leads to a heightened suspicion of minority communities amongst the majority population and creates demands for further restrictive measures against minorities. Such stigmatization contributes to the overrepresentation of ethnic minorities in the criminal justice system (ENAR, 2009). Furthermore, disproportionate criminal supervision and incarceration reduces education and work opportunities and breaks down families and communities.

Accordingly, racial profiling has a disproportionately negative impact on minority populations while reducing the possibility of finding perpetrators within the majority group (Pap, 2007). In other words, racial profiling is both over-inclusive and under-inclusive: over-inclusive in the sense that most people who fit the profile for criminal activity are innocent and under-inclusive in the sense that many criminals who do not fit the profile will escape police attention (ENAR, 2009). Therein, racial profiling also faces the problems of predictability and evasion; the more predictable police profiles become, the easier it is for actual perpetrators to circumvent the profile (ENAR, 2009).

Despite the lack of legitimacy and effectiveness of racial profiling practices, research on racially-biased legal enforcement in the U.S. shows the prevalence of racial profiling in police decisions to “stop and search,” even in jurisdictions that have prohibited this practice (see Banks, 2003; Harris, 2002). Aggressive crime-control strategies employed by police in an attempt to reduce crime heightens the perception that police officers use traffic offenses as a pretext to conduct disproportionate numbers of roadside investigations of African American, Latino/a, and other minority drivers and their vehicles, particularly to search for drugs (Farrell & McDevitt, 2010; Harris, 2002). In fact, the pervasiveness of racial profiling in the U.S. gave rise to the phrase “Driving While Black or Brown” (Gross & Livingston, 2002).

During the 1990s, litigations initiated by outraged citizens began to expose the discriminatory practices of law enforcement agencies in the United States. These lawsuits revealed that African Americans were indeed disproportionately stopped by police (Higgins et al., 2010; Harris, 2002). In light of such evidence, the federal government as well as state legislatures began taking important steps to stop racial profiling and hold police agencies accountable for systematically targeting minority citizens (Farrell & McDevitt, 2010). For example, in 2000, President Clinton signed an executive order that required federal law enforcement agencies to collect and report information about the racial and ethnic demographics of individuals detained by federal authorities (Chen, 1999). Furthermore, the U.S. Department of Justice Civil Rights Division launched investigations against police agencies to uncover racially disparate law enforcement practices that would constitute civil rights violations (Farrell & McDevitt, 2010). As a result of these investigations, numerous law enforcement agencies signed agreements with the federal government consenting to take remedial steps to prevent racial profiling. In addition, a majority of the states passed legislation explicitly banning racial profiling practices and requiring law enforcement agencies to develop programs in order to address racial profiling issues (Farrell & McDevitt, 2010).

One of the states that issued legislation to address the problem of racial profiling was Illinois, which passed a 2003 law mandating state law enforcement agencies to record the race, age, and gender of all drivers stopped for traffic violations, which would then be analyzed by the Illinois Department of Transportation for evidence of racial profiling and thereafter be reported to the Governor (see Illinois Public Act 93-0209). The bill also incorporated the racial and ethnic sensitivity training required for all law enforcement personnel (see Illinois Public Act 93-0209). Back then, President Obama was a member of the Illinois state legislature and actively worked on the racial profiling bill as its chief sponsor (see PBS, 2009). As an African American, the president was no stranger to racial profiling. In his 2006 book, *The Audacity of Hope*, Obama recalls that “Although, largely through luck and circumstance, I now occupy a position that insulates me from most of the bumps and bruises that the average black man must endure—I can recite the usual litany of petty slights that during my 45 years have been directed my way: security guards tailing me as I shop in department stores,

white couples who toss me their car keys as I stand outside a restaurant waiting for the valet, police cars pulling me over for no apparent reason” (p. 276). Acknowledging the persistence of racial profiling as a major problem in law enforcement, President Obama has since pledged to attend to the issue of racial profiling as part of his “Criminal Justice Reform” agenda (see White House, 2011).

Despite these reforms and changes, however, racial/ethnic profiling still remains a pervasive practice in law enforcement largely due to the habitual and often subconscious use of widely-perpetuated negative stereotypes in making decisions about who appears suspicious and criminal (see ENAR, 2009). In fact, as Pap (2007) points out, even though racial profiling was almost decisively rejected within public, professional, and political circles towards the end of the 1990s, the dynamics of the debate completely changed in 2001 in the aftermath of the 9/11 terrorist attacks. While a public opinion survey conducted in the fall of 1999 demonstrated that 81 percent of respondents disapproved of racial profiling, a poll conducted a few weeks after the 9/11 terrorist attacks demonstrated that 58 percent of respondents approved of having Arabs (including U.S. citizens) subjected to special, more intensive security checks before boarding an airplane (Gross & Livingston, 2002). Moreover, recent public opinion surveys regarding Arizona's S.B. 1070 immigration law demonstrate that the majority of Americans supported the bill's passage despite its ramifications for racial profiling and discrimination (see Jones, 2010). Given such high levels of public support, several states have sought to follow Arizona's example by drafting similar bills in the name of taking a tougher stance against crimes related to illegal immigration and drug trafficking (Romano, 2011). In short, so long as the public and politicians continue to draw primordial connections between race and crime, racial profiling will prevail in the law enforcement system.

RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM VIS-À-VIS DRUG OFFENSES

The “War on Drugs” exerts profound effects on the criminal justice system in various aspects. One particular outcome is the dramatic escalation in the prison population over the years. As Mauer (2009) notes, the number of people incarcerated for a drug offense in the U.S. increased from about 40,000 in 1980 to approximately half a million as of 2009. In fact, the number of people incarcerated in 2009 for drug offenses was greater than the number of people incarcerated for *all* offenses in 1980 (Mauer, 2009).

This historic rise in incarceration rates for drug offenses is connected to the growing racial/ethnic disparities in the demographics of the prison population. Specifically, African Americans and Latinos constitute almost two-thirds of people incarcerated for a drug offense in state prisons, which is far out of proportion to the extent that the members of these groups are involved in the use and/or sale of drugs (Mauer, 2009). In fact, as Provine (2007) points out, a

majority of crack cocaine users are actually Anglo Americans. Nevertheless, over-surveillance of minority-populated areas for such crimes leads to a disproportionately high number of drug-related minority arrests (see Gabbidon, 2010a). Moreover, while drug law violations in low income minority communities are subjected to law enforcement operations, drug use in affluent communities is more likely to be addressed as a family or public health problem (Mauer, 2009).

At the state level, New York's "Rockefeller" drug laws (adopted in 1973) and Michigan's "650-Lifer" law (adopted in 1978) exemplify the type of draconian measures taken as part of the war on drugs that have contributed to an excessive number of people (especially minorities) incarcerated for drug offenses. The Michigan statute called for life imprisonment without the possibility of parole for the sale, manufacture, or even possession of at least 650 grams (approximately 1.45 pounds) of cocaine or heroin. Meanwhile, the New York Rockefeller drug laws called for a minimum of 15 years to life in prison for possession of four ounces of narcotics or for the sale of two ounces—about the same as a sentence for a second-degree murder. As a result, drug-related incarcerations skyrocketed in New York with massive amounts of state funding allocated to the building and management of prisons while funding for community and other health-based services to address drug use and dependency was severely cut back and, for some services, completely eliminated.

Michigan's statute was reformed in 1998 and again in 2003, eliminating most mandatory minimums for drug crimes. On a parallel basis, the New York State Penal Law went through some reforms in 2004, and the Rockefeller drug laws were finally overturned in April 2009. Nevertheless, the collateral damage that these laws inflicted upon minority communities as well as the general public still persists.

At the federal level, national legislation transformed the stereotypical myths and fears about "minority-dominated crime" into punitive policies that disproportionately affected certain racial/ethnic groups (Gabbidon, 2010a). The best known examples are the Anti-Drug Abuse Acts of 1986 and 1988 that were initiated at the time of the Reagan administration. These legislative acts led to the notorious 100 to 1 provision, which mandated the same five-year prison sentence for five grams of crack cocaine as for 500 grams of powder cocaine, despite the gram-for-gram pharmacological equivalence of the two drugs (Hurwitz & Peffley, 1997). These laws aggravated racial disparities in the prison population given the fact that drug offenders sentenced under the crack cocaine provisions were predominantly poor people, many of whom were African American. To put it into perspective, the proportion of African Americans in state prisons grew from 7 percent to 25 percent within the first five years of the 1986 Anti-Drug Abuse Act, with even more dramatic increases at the federal level (Tonry & Hatlestad, 1997; Provine, 2007).

The emergence of such extreme racial differences in sentencing and incarceration immediately following the passage of the Anti-Drug Abuse Acts of 1986 and 1988 prompted the U.S. Sentencing Commission in their 1995 report to Congress to recommend parity in punishments for powder cocaine and crack cocaine (see Provine, 2007). In doing so, the commission sought to frame the problem in scientific terms, emphasizing the fact that the two drugs were identical in their chemical make-up (Provine, 2007). Despite the commission's efforts, Congress rejected the proposal and then-President Clinton stood with Congress on the issue. In fact, President Clinton signed into law a bill that maintained the original mandatory minimum penalties for crack-cocaine offenses (Dewoy, 1995; Provine, 2007).

More than 20 years later, President Obama finally overturned the Anti-Drug Abuse Acts of 1986 and 1988 by signing the Fair Sentencing Act on August 3, 2010. This historic piece of legislation significantly reformed crack cocaine sentencing by reducing the 100 to 1 sentencing disparity between crack and powder cocaine to 18 to 1. The Fair Sentencing Act of 2010 also eliminates the simple possession mandatory minimum, limits the excessive penalties served by people convicted of low-level crack cocaine offenses, and increases penalties for high-level traffickers (Public Law 111-220 - S. 1789).

RACIAL BIAS IN SENTENCING OUTCOMES VIS-À-VIS DRUG OFFENSES

In addition to the racial/ethnic disparities observed in incarcerations for drug-related offenses, a number of studies examine whether the race and/or ethnicity of a defendant affects sentencing outcomes (see, for example, Brennan & Spohn, 2009; Kramer & Steffensmeier, 1993). Several scholars find evidence that minorities receive harsher punishments compared to Anglos, even after offense seriousness and prior criminal record are taken into account (e.g., Albonetti, 1997; Steffensmeier & Demuth, 2000).

Scholars offer several explanations for ethnic/racial disparities in sentencing outcomes. As summarized by Steffensmeier and Demuth (2000), sociological research on law and crime suggests that socially disadvantaged and/or minority offenders are prone to more coercive treatment by law enforcement agents because (1) minorities often lack the resources to resist negative labels and stereotypes, (2) more powerful groups perceive them as a threat to the status quo and majority interests, and (3) the depiction of criminals as racially or culturally dissimilar (i.e., more dangerous and unpredictable) escalates fear among the more powerful groups, thus resulting in harsher sanctions.

Prior research also suggests that because judges have limited time and information about defendants, they hinge on certain "focal concerns" when making sentencing decisions (Steffensmeier et al., 1998). Specifically, the literature refers to three major focal concerns: (1) an offender's blameworthiness and the degree of harm caused, (2) protection of the community, and (3) practical

implications of sentencing decisions (Steffensmeier et al., 1998). In addressing these focal concerns, judges develop a “perceptual shorthand” based on stereotypes linked to an array of offender characteristics, including race/ethnicity, gender, and socio-economic class (Brennan & Spohn, 2009). Accordingly, stereotypical and preconceived notions of danger, risk of future crime, and culpability associated with one’s racial/ethnic group may invoke more severe sentences for minority offenders.

As Steffensmeier and Demuth (2000) point out, the historical and social context of the drug war exacerbates the significance of race and ethnicity as predictors of sentencing outcomes in drug offenses. In the current context of the war on drugs, drug distribution and sales (in particular, cocaine) are identified with gangs allegedly dominated by African Americans, whereas heinous stereotyping of the “drug pusher” or “narcotics trafficker” is mainly applied to Latinos, emphasizing their so-called cultural dissimilarities and amplifying the perceived “threat” they pose (Steffensmeier & Demuth, 2000). Steffensmeier and Demuth (2000) also find that race/ethnicity has a moderate effect on the imprisonment and term-length decisions favoring Anglo defendants and penalizing Latino/a defendants, with African American defendants placed in the middle of the sentence-severity continuum. Specifically, their findings indicate that Latino/a drug defendants are most at risk of receiving the harshest penalties and benefit least from sentence reductions. These results resonate with earlier findings that Latino/a and African American defendants convicted of federal drug crimes receive more severe sentences and benefit less from downward departures than do Anglo defendants, even after expansively controlling for various legal, extra-legal, and contextual factors (see, for example, Albonetti, 1997).

Most federal and state-level efforts have thus far largely focused on the prevention of racial profiling with regards to police stops, searches, and arrests. However, statistics indicating racial/ethnic disparities in sentencing outcomes, particularly in drug-related offenses, demonstrate the need for federal investigations regarding the potential existence of racial bias and discrimination vis-à-vis not only police practices but also judicial conduct. As such, a progressive president should take necessary measures to prevent and/or remedy racial discrimination in this area of criminal justice.

VIABILITY OF A PROGRESSIVE PRESIDENCY

Having considered the role of the war on drugs in exacerbating racial inequalities in the U.S. as well as the major historical developments during the course of this war, the question remains whether a progressive presidency is viable in this regard. I argue that in remedying the racial injustices and inequalities that have resulted from the war on drugs, the viability of a progressive presidency depends on several factors, which primarily include the presence of a progressively-minded president, legislature, judiciary, and public.

Most importantly, the president in office should have a progressive agenda to begin with in order to initiate and work towards key structural changes and policy reforms necessary to address such racial inequalities. For instance, it is hard to consider Ronald Reagan as a progressive president in addressing racial inequalities since it was his signature that enabled the racially-unjust Anti-Drug Abuse Acts of 1986 and 1988. On the other hand, Barack Obama, who held strong views on combating racial inequities long before becoming president, demonstrated his commitment to reform the country's controversial drug policies by signing the Fair Sentencing Act of 2010 into law. In addition to the successful passage of the Fair Sentencing Act, President Obama declared that he will (1) seek to strengthen federal hate crime legislation, (2) work to ensure that federal law enforcement agencies do not resort to racial profiling, (3) support funding for drug courts, giving first-time non-violent offenders a chance to serve their sentence in drug rehabilitation programs when appropriate, and (4) improve ex-offender employment and job retention strategies, substance abuse treatment, and mental health counseling so that ex-offenders can successfully re-join society (see White House, 2011). If President Obama succeeds in his continued reform efforts to develop a fairer and more equitable criminal justice system, such reforms will particularly benefit minority populations and help further reduce racial disparities especially vis-à-vis drug-related issues.

With regards to President Obama's drug policy agenda, his administration has addressed the issue of drug abuse and drug-related crimes from more of a public health perspective rather than a crime and punishment one, thus favoring prevention and treatment policies over incarceration. So far, with respect to the 2010 budget, President Obama led the drive to have \$203 million in increased funding for drug prevention programs plus \$137 million to help fund early intervention and treatment programs (Kerlikowske, 2010). Therein, the Obama administration pays particular attention to the underserved minority populations. This approach is much different from most previous anti-drug programs, such as Nancy Reagan's "Just Say No" campaign, which mainly targeted white, middle-class youth and perceived drug addiction as more of a moral choice than a product of socio-economic problems (Provine, 2007).

Interestingly, prevention and treatment was also President Nixon's policy approach, even though he was the one who coined the intrinsically punitive term "War on Drugs." Because drug addiction was largely associated with Vietnam War veterans at the time, punitive prohibitionism was not a politically feasible option for Nixon (Provine, 2007). Under these circumstances, Nixon devoted record portions of the federal budget and resources to drug abuse prevention and treatment. Instead, it was actually President Reagan who embarked on the more full-fledged "War on Drugs" as we know it today, shifting the emphasis from rehabilitation towards punishment. Thereafter, the shift in U.S. drug policies led to what has become a costly and largely ineffective war—one that targets and criminalizes minority populations in the name of law enforcement. Since then, the Obama administration has instituted a progressive change by approaching the drug issue from a more health-oriented perspective. In fact, White House Drug

Czar Gill Kerlikowske has called for an “end to the war on drugs” suggesting that “Regardless of how you try to explain to people it’s a ‘war on drugs’ or a ‘war on a product,’ people see a war as a war on them and we are not at war with people in this country” (Fields, 2009). Given this change in rhetoric, the longstanding inequalities and injustices levied against minorities and immigrants may gradually diminish in the long run if the political discourse continues moving further away from punishment-centered war analogies.

Also important, a president should be adamant in pursuing a progressive agenda even in the presence of political risks. Unfortunately, even progressive presidents at times succumb to political pressures and forgo the chance to discard the policies that are manifestly discriminatory. As previously mentioned, President Clinton—largely perceived as a progressive president—had the opportunity back in 1995 to end the racial disparities caused by the Anti-Drug Abuse Acts of 1986 and 1988, but instead chose to reinstitute the unfair legislation in order to avoid a political backlash. Under the Obama administration, however, the infamous 100 to 1 sentencing disparity between crack and powder cocaine has now been reduced to 18 to 1 and crack possession mandatory minimums are finally eliminated with the passage of the Fair Sentencing Act of 2010. Furthermore, President Obama also resisted political pressure by taking legal action to prevent the Arizona immigration law from going into effect even though the majority of the public supported the law and opposed the federal government filing a lawsuit against it (see Gallup, 2010).

One should note that even though President Obama has pushed for reforms to address the longstanding racial injustices and disparities driven by the nation’s drug policies, linear progress is never guaranteed. Even if the Obama administration continues its reform efforts, a less progressive president may later replace Obama and move to overturn such reforms, thereby leading the country in a backwards direction. In many instances, such presidential shifts in policy direction occur in conjunction with shifts seen in the legislative arena. For example, under the leadership of President Harry Truman, Congress established mandatory minimum sentences for drug crimes back in 1951 with the Boggs Act. A few years later, under the Eisenhower administration, Congress further increased such minimums with the Narcotics Control Act of 1956. Under the Nixon administration in 1970, however, Congress decided to repeal mandatory minimums in drug sentences, partly in reaction to the testimony of the Katzenbach Commission created by President Johnson, which suggested that such mandatory minimums had a disproportionate impact on impoverished racial minorities (Provine, 2007). However, in less than twenty years, mandatory minimums returned with the Anti-Drug Abuse Acts of 1986 and 1988 and were harsher and more racially unjust than before.

Another example where the country strayed away from progressive policies and attitudes concerns the issue of racial profiling. By the end of the 1990s, racial profiling became widely considered an unacceptable practice in law enforcement. Yet, after the 9/11 terrorist attacks in 2001, the public became

increasingly supportive of selective security checks based on one's physical appearance (Gross & Livingston, 2002). More recently, the public and certain state legislators expressed support for the Arizona immigration law despite its blatant propensity to facilitate racial profiling practices. In fact, most proponents of this law sought to justify their support by claiming that the law would not lead to racial profiling. To illustrate, former Alaska governor and potential 2012 presidential candidate, Sarah Palin, commented that "It's shameful, too, that the Obama administration has allowed, too, this to become more of a racial issue by perpetuating this myth that racial profiling is a part of this law" (Fox News, 2010). All these instances show that the country remains vulnerable to reverting back to openly discriminatory policies in the name of order maintenance and security.

CONCLUSION

Overall, several progressive steps have been taken towards addressing racial injustices and disparities caused by the war on drugs. Among these, the Fair Sentencing Act of 2010 stands out as one of the most significant developments that took place under the Obama administration. However, one should note that the Fair Sentencing Act is not absolutely "fair" since it does not achieve full parity between crack and powder cocaine sentencing—it only reduces the ratio from 100:1 to 18:1. Moreover, the Fair Sentencing Act does not yet apply retroactively to those who have already been imprisoned for crack offenses (see Seltzer Stitt, 2010). In addition, the Fair Sentencing Act only affects federal crack cocaine sentences—it does not reduce sentences for those prosecuted under state law even though they constitute a vast majority of incarcerations for crack offenses (see Keller, 2011).

Thus, despite some promising changes, much remains to be done in the way of drug policy reforms to achieve genuine solutions to overcome the racial inequalities and injustices of the past. After all, there is only fair or unfair, equality and justice do not come in degrees. Accordingly, President Obama and his successors should pursue further structural reforms that effectively undertake the key issues of poverty, education, health, civil rights, and criminal justice. Otherwise, mild reforms will make presidents only "mildly progressive" and may not be enough to permanently turn the tide on the war on drugs.

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