# Differences in Legal Characteristics Between Caucasian and African-American Women Diverted Into Substance Abuse Treatment

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In this exploratory study, we examined differences in the legal characteristics of Caucasian and African-American female offenders (n=122) who were diverted into substance abuse treatment, to identify any racial disparities. We also examined the differences between groups in demographics and in substance abuse, family, and violence histories. In terms of legal characteristics, the results showed that African-American female offenders were significantly more likely to have been incarcerated at the time of their substance dependency evaluation than were Caucasian female offenders. Also, African-American women were more likely to have served 13 months for the current legal charge in comparison to the 4 months served by Caucasian women, although no differences were found between groups in the severity of the current legal charge. Comparison of demographics and substance abuse, family, and violence histories indicated that African-American women were more likely to be undereducated, crack cocaine dependent, and overly exposed to violence. Overall, the sample of female offenders evidenced severe substance dependency problems, a strong need for inpatient substance abuse treatment, and chronic legal and social difficulties. Implications of these findings are discussed in relation to unbalanced sentencing policies and increasing awareness of the treatment needs of this unique population.

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In 2007, the total number of incarcerated people in the United States exceeded 2 million, a 1.5 percent increase from the prior year. The largest proportion of individuals within the criminal justice system are men, and, as scholars have noted, there are prominent racial differences in incarceration rates between Caucasian and African-American men. <sup>2–5</sup> In 2007, it was estimated that African-American men had more than six times the imprisonment rate of Caucasian men. In addition, if this current rate of incarceration

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remains the same, 1 in 3 African-American men is expected to be incarcerated at least once during his lifetime, in contrast to 1 in 17 Caucasian men.<sup>6</sup>

Although African-American men represent the largest percentage of the inmate population, the African-American female prison population is steadily increasing and evidencing similar racial disparities in rates of incarceration.<sup>7–9</sup> For example, African-American female offenders have a 5.6 percent chance of going to prison, which is comparable with that of Caucasian male offenders. Yet, Caucasian female offenders only have a 0.9 percent chance.<sup>6</sup> Furthermore, in 2005, African-American women were twice as likely as Hispanic women to have been incarcerated, and over three times as likely as Caucasian women.<sup>8</sup> Also, African-American women are the demographic group with the highest rate of incarceration for drug offenses.<sup>10–12</sup>

What accounts for this racial disparity in incarceration of female offenders? Research examining African-American women within the criminal justice sys-

tem is seldom undertaken, and thus few studies are available to answer this question. In one argument, scholars suggest that the reason for the racial disparity is that nearly 80 percent of incarcerated African-American female offenders are crack cocaine dependent, 13,14 making them more susceptible to the lengthy drug offense sentences that were stiffened in the 1980s during the War on Drugs. 2,9,15-17 Before changes in federal drug-sentencing policy, certain drug offenses were considered misdemeanors, but these same offenses are now classified as felony drug charges carrying longer prison sentences. 18 For example, crack cocaine is the only drug with a mandatory minimum prison sentence of five years for firsttime possession offenders, while simple possession of any other drug is a maximum sentence of one year in prison. 19

Awareness and reform of racial disparities in incarceration are important for numerous reasons. First, incarceration is related to public health concerns. Prisons contain a high concentration of individuals with chronic and infectious diseases that are hazardous to the health of other inmates. For example, in 2005, the U.S. Department of Justice revealed that 2.4 percent of women in state prisons were HIV positive or had confirmed AIDS-2.5 times higher than the general population.<sup>20</sup> Furthermore, other illnesses, such as tuberculosis, have a high risk of spread and contraction due to the close proximity of individual inmates and frequent transfer of inmates between prisons.<sup>21</sup> If African-American women demonstrate higher rates of incarceration, they are essentially more susceptible to these health concerns than any other ethnic group of female offenders.

Another reason that this dilemma deserves urgent attention is that once the woman is incarcerated new difficulties arise. Take for instance the significance of family dissolution for female offenders with children, because of the inmate's role as a mother or caregiver. In addition, African-American female offenders are more likely than Caucasian female offenders to be single mothers with more than one child.<sup>22</sup> This social situation also raises concerns about the intergenerational consequences of incarceration, as discovered in findings indicating that children of incarcerated parents are up to six times more likely to be incarcerated at some point in their lives than children of parents who are not involved in the criminal justice system.<sup>23–25</sup>

Finally, examining racial disparities in incarceration is important because the cost of imprisonment is steep, more than \$23,000 annually per inmate.<sup>26</sup> Consider this cost within the context of a five-year mandatory minimum prison sentence for a female offender while also considering the additive costs to taxpayers for child and family services involvement, foster care, and the potential future cost of incarcerating the offspring of the incarcerated female offender.

Adding to this already perplexing problem is the proportion of substance-dependent female offenders in need of treatment. As stated earlier, among female offenders, African-American women have the highest rate of incarceration for drug-related offenses. Although the availability of substance abuse treatment within correctional facilities has improved, severely substance-dependent women are less likely to receive intensive substance abuse treatment.<sup>3</sup> Thus, they are left with few relapse prevention skills and, upon community reentry, are at risk of relapse and recidivism.

Seeking to understand racial disparities in female incarceration, we conducted an exploratory study comparing the demographic, legal, and substance abuse characteristics of African-American and Caucasian women who were court mandated to undergo a substance dependency evaluation, known in the Connecticut General Statutes as 17a-694:

- (a) The Commissioner of Mental Health and Addiction Services or his designee shall appoint one or more clinical examiners to conduct examinations for alcohol or drug dependency ordered pursuant to the provisions of section 17a-693. Each examiner shall be authorized by the department to conduct independent evaluations.
- (b) The examiner shall determine whether the person being examined was an alcohol-dependent or drug-dependent person at the time of the crime. If such person is determined to have been dependent on alcohol or drugs, the examiner shall further determine (1) the history and pattern of the dependency, and (2) whether the person presently needs and is likely to benefit from treatment for the dependency. If the examiner determines that the person presently needs and is likely to benefit from treatment, he shall recommend treatment and state the date when space will be available in an appropriate treatment program, provided such date shall not be more than forty-five days from the date of the examination report. A recommendation for treatment shall include provisions for appropriate placement and the type and length of treatment and may include provisions for outpatient treatment.
- (c) The examiner shall prepare and sign, without notarization, a written examination report and deliver it to the court, the Court Support Services Division, the state's attorney and defense counsel no later than thirty days after the examination was ordered. An examination report or-

**Table 1** Characteristics of Female Offenders

Variable	n	%	Mean	SD
Demographics				
Age, y			41.20	8.50
Race/ethnicity				
Caucasian	88	72.0		
African-American	34	27.9		
Education, y			11.73	2.16
Employed	35	28.7		
Substance abuse characteristics				
Substance dependent	92	75.4		
Primary substance of abuse				
Alcohol	23	18.9		
Marijuana	9	7.4		
Cocaine (crack)	34	27.9		
Heroin	28	23.0		
Diverted into substance abuse treatment	73	62.3		
Level of substance abuse treatment				
Inpatient treatment	57	78.1		
Intensive outpatient treatment	9	12.3		
Outpatient treatment	7	9.6		
Legal characteristics				
Current misdemeanor charge	26	26.6		
Current felony charge	89	77.4		
Drug-related arrest	65	53.3		
Incarcerated at time of evaluation	39	32.0		
Total number of arrests (lifetime)			8.25	14.39
Length of current incarceration, months			6.23	13.06
Family history characteristics				
Family history of violence	37	30.3		
Family history of substance abuse	73	59.8		
Family history of mental illness	20	16.4		
Violence characteristics				
History of violence (victim and/or	25	20.5		
perpetrator)				
Victim of intimate partner violence	42	34.4		

dered pursuant to this section and section 17a-693 shall otherwise be confidential and not open to public inspection or subject to disclosure.

(d) No statement made by the person in the course of an examination under the provisions of this section may be admitted in evidence on the issue of guilt in a criminal proceeding concerning the person [Ref. 27].

#### **Methods**

### **Data Collection**

Approval to conduct the study was requested and granted through the Human Investigation Committee (HIC) at the Yale University School of Medicine. Data were collected between 1999 and 2005 on approximately 400 men and women arrested for various criminal charges and ordered by the court to undergo a 17a-694 substance dependency evaluation. Only data on female offenders were analyzed (n = 122). Substance dependency evaluations were conducted for five judicial districts in Connecticut.

During the evaluation, offenders completed questionnaires pertaining to their demographics and mental health, substance abuse, and legal histories. Current and lifetime psychiatric diagnoses such as depression, anxiety, and substance dependence were assessed with an adapted version of the Structured Clinical Interview for DSM-IV (SCID).<sup>28</sup> An adapted version of the Addiction Severity Index (ASI)<sup>29</sup> was also utilized to assess legal matters, alcohol and drug use, and family, employment, and psychiatric characteristics. At the culmination of the interview, if drug or alcohol dependence was identified, recommendations for substance abuse treatment were offered to the court.

## Results

# Participant Characteristics

As shown in Table 1, 72 percent of the sample identified themselves as Caucasian and 28 percent as

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Table 2 Differences in Characteristics Between Caucasian and African-American Female Offenders

Variable	Caucasian	African-American	$\chi^2$	t	p
Differences across demographics					
Age in years, mean (SD)	40.99 (8.75)	41.74 (7.92)		.43	.67
Education in years, mean (SD)	12.12 (2.06)	10.68 (2.11)		-3.14	.01**
Employed, % (n)	38.7 (29)	22.2 (6)	1.71		.19
Differences across substance abuse characteristics, % (n)					
Substance dependent	77.3 (68)	70.6 (24)	.67		.71
Primary substance of abuse					
Alcohol	18.4 (16)	21.2 (7)	10.66		.03*
Marijuana	9.2 (8)	3.0 (1)			
Cocaine (crack)	24.1 (21)	39.4 (13)			
Heroin	29.9 (26)	6.1 (2)			
Diverted into substance abuse treatment	63.6 (56)	58.8 (20)	.90		.64
Level of substance abuse treatment					
Inpatient	79.6 (43)	73.7 (14)	.34		.85
Intensive outpatient	11.1 (6)	15.8 (3)			
Outpatient	9.3 (5)	10.5 (2)			
Differences across legal characteristics					
Total number of arrests (lifetime), mean (SD)	7.87 (12.77)	9.33 (18.49)		.45	.65
Length of current incarceration, mean (SD)	3.95 (9.97)	12.52 (17.97)		2.22	.035*
Severity of current legal charge, % (n)					
Misdemeanor	22.0 (18)	24.2 (8)	.00		.99
Felony	78.0 (64)	75.8 (25)			
Drug-related arrest, % (n)	69.8 (44)	30.2 (19)	.15		.70
Incarcerated at time of evaluation, % (n)	20.5 (18)	61.8 (21)	19.24		.00**
Differences across family history characteristics, % (n)					
Family history of violence	30.7 (27)	29.4 (10)	1.45		.49
Family history of substance abuse	59.1 (52)	61.8 (21)	2.85		.24
Family history of mental illness	19.3 (17)	8.8 (3)	2.76		.25
Differences across violence characteristics, % (n					
History of violence (victim and/or perpetrator)	15.9 (14)	32.4 (11)	7.64		.02*
Victim of intimate partner violence	34.1 (30)	35.3 (12)	2.19		.34
$\frac{1}{n} < 05. **n \le 01.$					

 $<sup>*</sup>p < .05, **p \le .01.$ 

African-American. The ages ranged from 25 to 60 years with a mean age of 41 years (SD 8.5). The sample reported an average of 11.73 years of education (SD 2.16), and almost 30 percent were employed.

Substance abuse histories showed that most (75%) had been diagnosed as substance dependent, with 19 percent reporting alcohol as the primary substance, 7 percent marijuana, 28 percent cocaine (crack), and 23 percent heroin. More than half (62%) of the sample was diverted into substance abuse treatment, with the majority (78%) being treated as inpatients, 12 as outpatients in intensive programs, and 10 percent as outpatients.

Those in the sample had 8.25 lifetime arrests. Twenty-seven percent were currently under arrest for misdemeanor charges and 77 percent for felonies. Drug-related arrests accounted for more than half (53%) of the sample. At the time of the substance dependency evaluation, 32 percent of the sample had been incarcerated for an average of 6 months.

Finally, family history and violence characteristics showed that 30 percent had a family history of violence, more than half (60%) had a family history of substance abuse, and relatively few (16%) had a family history of mental illness. Twenty-one percent reported a history of being involved in violence, as the victim or the perpetrator, and 34 percent reported being the victim of intimate partner violence.

# Comparison of Demographic Characteristics

Independent sample *t* tests and chi-square tests were used to compare the demographic characteristics of Caucasian and African-American female offenders. As shown in Table 2, Caucasian and African-American women were similar in age (41 and 42 years, respectively), and the difference in employment between the groups was not statistically significant (Caucasian women, 83.3%; African-American women, 16.7%). However, a significant difference was found between groups in years of education: African-

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American women completed 10.68 years and Caucasian women, 12.12 years (p = .01).

# **Comparison of Substance Abuse Characteristics**

Independent sample t tests and chi-square tests were used to compare differences in Caucasian and African-American female offenders' substance abuse characteristics. Caucasian and African-American women had a similar prevalence of substance dependence (77% and 71%, respectively); however, a statistically significant difference was found between the primary substance of abuse. Specifically, Caucasian women were significantly more likely to abuse heroin (30%; African-American women, 6%; p =.03), while African-American women were more likely to abuse crack cocaine (39%; Caucasian women, 24%; p = .03). The groups were equally diverted into substance abuse treatment (64% and 59%, respectively), with the majority being diverted into inpatient treatment (80% and 74%, respectively).

# Comparison of Legal Characteristics

Independent sample t tests and chi-square tests were also used to examine differences across legal characteristics. Results showed similarities between groups in arrest history. Caucasian women were arrested an average of eight times (SD 12.77) and African-American women were arrested an average of nine times (SD 18.49). Furthermore, both groups had an equal level of severity of their current legal charges. Specifically, 22 percent of Caucasian women and 24 percent of African-American women were arrested for misdemeanor charges, while 78 percent of Caucasian women and 76 percent of African-American women were arrested for felony charges. In addition, 70 percent of Caucasian women and 30 percent of African-American women were arrested for drug-related charges. None of these differences were found to be statistically significant. However, significantly more African-American (62%) than Caucasian (21%, p = .00) women were incarcerated at the time of their substance dependency evaluation. Moreover, African-American women had served significantly more time (13 months) for their current legal charge than had Caucasian women (4 months, p = .035), although, as mentioned, no differences were found between groups in the severity of their current legal charge ( $\chi^2 = .000$ ; df = 1, p = .99).

# Comparison of Family History and Violence Characteristics

Differences across family history and violence characteristics were analyzed by the chi-square test. Caucasian and African-American women equally reported a family history of violence (31% and 29%, respectively) and being the victim of intimate partner violence (34% and 35%, respectively). However, a statistically significant difference was found in history of violence, with African-American women (32%) being more likely than Caucasian women (16%, p = .02) to have a history of being victims or perpetrators of violence.

Finally, more than half of the Caucasian (59%) and African-American women (62%) reported a family history of substance abuse, but relatively few reported a family history of mental illness (19% and 9%, respectively).

# **Discussion**

In the present study, we sought to compare differences in the demographics; substance abuse, legal, and family histories; and violence characteristics of Caucasian and African-American female offenders, to determine whether there are racial disparities in legal characteristics. Results clearly identified several such disparities. Specifically, more than half of the African-American female offenders reported being incarcerated at the time of the substance dependency evaluation. Furthermore, African-American women reported serving an average of 13 months incarceration, while Caucasian women served an average of 4 months, although both groups evidenced similarities in the severity of their current legal charge. Findings also identified further disparities between groups, including a lower likelihood of completing high school, a higher likelihood of dependence on crack cocaine, and a higher frequency of violence victimization or perpetration among African-American women.

In terms of disparities in sentencing, one interpretation of this finding is that African-American women are more vulnerable to lengthy sentencing as a result of mandatory minimum sentencing, since both groups demonstrated similarities in the severity of legal offenses committed. African-American women were more likely to be crack cocaine dependent, and a first-time offense for possession of crack cocaine triggers a mandatory minimum sentence of

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five years compared with one year for possession of any other drug. Yet, one could also argue that fewer Caucasian women were incarcerated at the time of the substance dependency evaluation because they bonded out of prison faster. In addition, since Caucasian women were more likely to complete high school, they may have had the ability to navigate the legal system better, resulting in a more favorable sentencing outcome.

Previous research suggests that the disparity is also the result of social background. As described by Freudenberg,<sup>3</sup> many cities have large populations of poor and disadvantaged people, and higher rates of crime than suburban areas, resulting in the overrepresentation of urban populations in the criminal justice system.

Finally, another interpretation is that African-American women may have had a prior history of more severe (or violent) legal charges that resulted in less favorable sentencing outcomes.

Overall, racial disparities were shown between Caucasian and African-American female offenders in sentencing and incarceration at the time of the evaluation. Yet, the results of this study illustrate another important finding: the acute substance dependence and chronic legal difficulties experienced by this sample of female offenders. The severity of substance dependence is demonstrated in the predominate diversion of female offenders into inpatient substance abuse treatment, which is the highest level of care. In addition, this sample of women was predisposed to drug addiction, with more than half reporting a family history of substance abuse. Felonies represented the majority (three-fourths) of the current legal charges, and frequent arrests, particularly drug-related arrests, epitomized the chronicity of their criminal involvement.

It is important to build awareness of racial disparities in legal characteristics, education, and exposure to violence, as well as to understand the serious legal, drug, and social problems of female offenders overall. The female offender population is less well researched relative to the male offender population; thus, the results of this study have implications for both policy and treatment. From a policy perspective, it is likely, as many scholars have suggested, that disparities in the legal characteristics of female offenders is directly related to unbalanced sentencing policy and social history. From a treatment perspective, female offenders may suffer from trauma sec-

ondary to intimate partner violence and general violence victimization; they may have vocational and educational needs; and they may have severe addiction accompanied by chronic legal difficulties related to their addiction. Lacking treatment and case management for such problems may place these women at high risk of recidivism and greater severity of addiction.

Limitations of this study were an unbalanced sample size—specifically, a larger Caucasian female offender group. Also, the study collapsed violence victimization and perpetration into one category: history of violence. Instead, the history of violence variable should have been divided into two categories to obtain more specific information about violence perpetration and violence victimization. Furthermore, it would have been beneficial to obtain more detailed self-report and objective data about each woman's history of violence, such as but not limited to first use of violence, type of violence, and arrests for violence. Instruments that are more sensitive to the constructs of violence, such as the Revised Conflict Tactics Scale<sup>30</sup> should have been used to ascertain whether female offenders were victims or perpetrators of verbal, physical, psychological, and/or sexual violence. Also, it would have been helpful to have specific information about legal history including past and present legal charges and resultant sentencing, to pinpoint the exact magnitude of differences between legal characteristics. However, as an exploratory study, these findings highlight racial disparities in sentencing and the severity of substance dependence and legal problems for this sample of female offenders. The female offender population is largely ignored relative to male offenders; thus, this study is a preliminary step in gaining an understanding of the mechanisms underlying racial disparities in incarceration as well as increasing awareness of the obstacles faced by female offenders.

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