

# THE WAR ON DRUGS

## ➔ WHAT IS THE WAR ON DRUGS?

Launched by Richard Nixon in 1971 when he declared drug abuse — and, by implication, drug users — “public enemy No. 1.,” the U.S. government has been waging the “war on drugs” internationally and domestically — at the state and federal level — for over 30 years.<sup>1</sup>

The term “war on drugs” has come to refer to a set of policies that include interdiction (stopping and searching people who fit the “profile” of a drug user or courier) on the nation’s highways, buses, trains and planes, saturation of particular neighborhoods (almost entirely low-income communities of color) with law enforcement officers charged with finding drugs in any quantity through widespread “stop and frisk” activities, surveillance, undercover operations, and highly militarized drug “raids” conducted by “SWAT” teams, as well as mass incarceration of drug users and punitive measures aimed at individuals with drug convictions.<sup>2</sup>

## ➔ WHO IS IMPACTED & HOW?

In 1997, Danette Daniels, a pregnant black woman, was arrested by New Jersey police officers for allegedly dealing drugs, and was shot to death by the officers as she sat in a police squad car. Witnesses deny that Danette was involved in any drug transaction at the time of her death.<sup>3</sup>

The racially disparate impacts of the “war on drugs” on “communities of color” have been widely documented.<sup>4</sup> **What is less often discussed is the fact that these policies have disproportionately and specifically targeted and impacted low-income women and transpeople of color, who are systematically profiled as drug users and couriers, and receive long, mandatory sentences that have little relationship to their circumstances.** This puts them, their communities and families at greater risk for violence at the hands of law enforcement and in the foster care, prison, and mental health systems.<sup>5</sup> Women of color, who use drugs at rates equal to or lower than those of white women<sup>6</sup>, are

more harshly affected by current drug laws and policies than any other group:

- ➔ Women of color are the fastest growing population of people being imprisoned for drug offenses — since 1986 the number of women of color in prison has increased 800%, compared to a 400% increase for women of all races.<sup>7</sup>
- ➔ In New York, women of color are 91% of those women sentenced to prison for drug crimes, although they make up just 32% of the state’s female population.<sup>8</sup>
- ➔ Although Native Americans in Montana comprise only about 6 percent of the total state population, Native women constitute approximately 25% of the female prison population. According to Professor Luana Ross, “[a] partial explanation for the increase in the female prison population is their incarceration for drug offenses.”<sup>9</sup>

Although many women are involved with the drug trade for the same reasons as their male counterparts, there are often gender-specific circumstances at play. **Many women and trans people of color living at the intersections of multiple forms of oppression are denied access to sustainable, non-criminalized means to support their family, and turn to street economies to survive.** Many find themselves trapped in abusive, violent relationships with men involved in trafficking, or use controlled substances to medicate the emotional and physical symptoms of abuse.<sup>10</sup> According to a recent study on female drug couriers, many women recounted being coerced into carrying drugs with threats of violence and death.<sup>11</sup> Once involved, women are subject to criminal sanctions that far exceed their role in the drug trade.



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## ⇒ PROFILING WOMEN OF COLOR IN THE WAR ON DRUGS

Racial disparities in arrests, convictions, and incarceration of women of color are clearly connected to the considerable discretion exercised by law enforcement agents waging the “war on drugs” when deciding whom to stop, search, and arrest.<sup>12</sup> Law enforcement interactions with women of color are clearly informed by perceptions of their bodies as vessels for drugs ingested, swallowed or concealed.

Frankie Perkins, a black mother of three on her way home in Chicago one evening in 1997, was crossing an empty lot when she was stopped, and subsequently choked, by police officers who later claimed that they had seen her swallowing drugs and were trying to get her to spit them up. Autopsy photos revealed bruises on her face and rib cage, and showed her eyes swollen shut. The cause of death was listed as strangulation. No drugs were recovered. In a similar incident in south Seattle, Theresa Henderson was choked by police who claimed that she tried to swallow a small amount of cocaine.<sup>13</sup>

A 2000 U.S. government General Accounting Office study revealed that women of color – be they African American, African, Latina, or from the Caribbean – are frequently stereotyped by law enforcement agents as couriers in the international drug trade. As a result, they are disproportionately targeted for strip searches as part of border interdiction activities, even though they are less likely than white women to actually be transporting drugs. Black women appear to be most often subject to a presumption that they were acting as drug “mules” or couriers and carrying drugs concealed on or in their person. According to the GAO, among United States citizens, black women were nine times more likely than white women to be X-rayed after being frisked or patted down. However, African-American women were less than half as likely to be found carrying contraband as white women.<sup>14</sup>

In 1996, Sandra Antor, a nursing student and Sunday school teacher, was pulled over by a South Carolina state trooper as she was driving down Interstate 95 on her way home to Florida, ripped from her car, shoved to the ground on a busy highway, and beaten before being taken into custody. The officer later cited the possibility that Sandra may have been transporting drugs as justification for his actions.<sup>15</sup>

Although law enforcement interactions with women of color beyond the customs context have received considerably less attention, such stereotypes extend beyond the border. Women of color also report frequent, and often abusive, strip searches by local and state law enforcement officers in search of drugs.

Danni Tyson was arrested on a subway train on her way to pick up her daughter from swim practice, and subsequently strip-searched at a Manhattan police station. During the search, she was asked to lift up her breasts to show that she was not hiding drugs, and subjected to racialized ridicule.<sup>16</sup>



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## ⇒ POLICING MOTHERHOOD

The “war on drugs” has also given rise to greater surveillance and policing of women of color’s reproduction. Selective testing of pregnant women of color for drug use and heightened surveillance of poor mothers of color in the context of policing child abuse and neglect are gender-specific manifestations of the “war on drugs.”<sup>17</sup>

An estimated 200 women in more than 30 states have been prosecuted on charges of “drug delivery,” “drug possession,” or “fetal/child abuse” based on evidence of drug use during pregnancy.<sup>18</sup> In the state of South Carolina, drug use by pregnant women has been legally construed as child abuse. In 2000, Regina McKnight was convicted of homicide and sentenced to twelve years in prison for suffering a stillbirth. (McKnight v. South Carolina, South Carolina Superior Court in Horry County, 2000) Instead of being offered rehabilitation or treatment, pregnant women are reported by their doctors to law enforcement, shackled and arrested, and prosecuted under state child abuse laws.

In a program developed through a collaboration between local law enforcement, hospital officials, and the local prosecutor’s office, the public hospital in Charleston, SC, which serves a predominantly Black population, selectively drug tested pregnant women who seemed “likely” by the hospital’s criteria to have drug abuse problems. Hospital staff reported positive tests to the police who would then arrest the women, sometimes shackling them to the bed while in labor, often taking them to jail within minutes of giving birth, while still bleeding and in pain. Twenty-nine of the thirty women prosecuted under this policy were Black, and the 30th was reported by one nurse to have a “negro boyfriend.”<sup>19</sup>



Art by Cristy C. Road, [croadcore.org](http://croadcore.org)



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## ⇒ ENDNOTES

- <sup>1</sup> National Public Radio, *Timeline: American's War On Drugs*, April 2, 2007, available at: <http://www.npr.org/templates/story/story.php?storyId=9252490> (last visited September 10, 2008); The Sentencing Project, *Disparity by Geography: The War on Drugs in America's Cities 3* (2008).
- <sup>2</sup> See The Sentencing Project, *Disparity by Geography: The War on Drugs in America's Cities* 9-10, 16, 21-25 (2008); P. Allard, *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses*, Sentencing Project, 2002; *Caught in the Net: The Impact of Drug Policies on Women and Families*, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005.
- <sup>3</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 28, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005
- <sup>4</sup> See, e.g., The Sentencing Project, *Disparity by Geography: The War on Drugs in America's Cities* (2008); Human Rights Watch, *Targeting Blacks: Drug Enforcement and Race in the United States* (2008); Justice Policy Institute, *The Vortex: The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties* (2007); Human Rights Watch, *Punishment and Prejudice: Racial Disparities in the War on Drugs* (2000).
- <sup>5</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families*, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005.
- <sup>6</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 17, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005
- <sup>7</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 16, 17, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005.
- <sup>8</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 18, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005.
- <sup>9</sup> Luana Ross, *Inventing The Savage: The Social Construction Of Native American Criminality*, 87, 89-90, University of Texas Press: Austin (1998).
- <sup>10</sup> Beth Richie, *Compelled to Crime: The Gender Entrapment of Battered, Black Women*, Routledge (1995).
- <sup>11</sup> Tracy Huling, *Women Drug Couriers: Sentencing Reform Needed for Prisoners of War*, Criminal Justice (Winter 1995), pp. 15-19.
- <sup>12</sup> See The Sentencing Project, *Disparity by Geography: The War on Drugs in America's Cities* 25 (2008).
- <sup>13</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 28, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005; Amnesty International, *Summary of Amnesty International's Concerns on Police Abuse in Chicago*, AMR511681999 (1999).
- <sup>14</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 29, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005
- <sup>15</sup> This account is based on a feature aired on the NBC news program "Dateline" entitled "Road Warrior," in which the video tape of the incident is shown, and Ms. Antor and Officer Beckwith are interviewed. See also *Black Woman Abused By White South Carolina State Trooper Sues State - Sandra Antor Sues The Public Safety Dept. Officer Has Been Fired*, Jet, April 29, 1996; *White South Carolina State Trooper Fired After His Video Camera Shows Him Abusing Black Woman*, Jet, April 8, 1996; *Woman Dragged From Car By Police Sues State*, CNN News Briefs, April 4, 1996, <http://www.cnn.com/US/9604/04/newsbriefs/index1.html>; Fred Bruning, *Rogue Cops and Civilian Beatings*, Newsday (April 1996).
- <sup>16</sup> Diane Cardwell, *Strip-Search Agreement: Shame's Effects Linger*, N.Y. TIMES (January 11, 2001).
- <sup>17</sup> Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare*, Basic Civitas Press (2003); Susan C. Boyd, *From Witches to Crack Moms: Women, Drug Law and Policy*, Carolina Academic Press (2004); Roberts, Dorothy, *Punishing Drug Addicts who Have Babies: Women of Color, Equality, and the Right to Privacy*, 104 Harvard Law Review 1419, 1421 (1991)
- <sup>18</sup> L. Paltrow, *Punishing Women for their Behavior During Pregnancy: An Approach the Undermines the Health of Women and Children*, available at: [http://advocatesforpregnantwomen.org/file/Punishing%20Women%20During%20Pregnancy\\_Paltrow.pdf](http://advocatesforpregnantwomen.org/file/Punishing%20Women%20During%20Pregnancy_Paltrow.pdf) (last visited September 10, 2008).
- <sup>19</sup> *Caught in the Net: The Impact of Drug Policies on Women and Families* 15, ACLU, Break the Chains: Communities of Color and the War on Drugs, The Brennan Center at NYU School of Law, 2005; Susan C. Boyd, *From Witches to Crack Moms: Women, Drug Law and Policy*, Carolina Academic Press (2004); C. J. Mumola, *US Department of Justice Bureau of Justice Statistics, Incarcerated Parents and their Children*, Washington, DC: US Department of Justice (August 2000).

