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# Powder cocaine and crack use in the United States: An examination of risk for arrest and socioeconomic disparities in use

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ABSTRACT

*Background:* In light of the current sentencing disparity (18:1) between crack and powder cocaine possession in the United States, we examined socioeconomic correlates of use of each, and relations between use and arrest, to determine who may be at highest risk for arrest and imprisonment.
*Methods:* We conducted secondary data analyses on the National Survey on Drug Use and Health, 2009–2012. Data were analyzed for adults age ≥18 to determine associations between use and arrest. Socioeconomic correlates of lifetime and annual use of powder cocaine and of crack were delineated using multivariable logistic regression and correlates of frequency of recent use were examined using generalized negative binomial regression.
*Results:* Crack users were at higher risk than powder cocaine users for reporting a lifetime arrest or multiple recent arrests. Racial minorities were at low risk for powder cocaine use and Hispanics were at low risk for crack use. Blacks were at increased risk for lifetime and recent crack use, but not when controlling for other socioeconomic variables. However, blacks who did use either powder cocaine or crack tended to use at higher frequencies. Higher education and higher family income were negatively associated with crack use although these factors were sometimes risk factors for powder cocaine use.
*Conclusions:* Crack users are at higher risk of arrest and tend to be of lower socioeconomic status compared to powder cocaine users. These findings can inform US Congress as they review bills (e.g., The Smarter Sentencing Act), which would help eliminate cocaine-related sentencing disparities.
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## 1. Introduction

Cocaine is one of the most prevalent and potentially dangerous illicit drugs (National Institute on Drug Abuse [NIDA], 2010; Substance Abuse and Mental Health Services Administration [SAMHSA], 2013a). In 2012, almost 4.7 million individuals (aged 12 and older) in the US reported past-year use (SAMHSA, 2013b). There are notable racial and ethnic disparities in use with Whites more likely to report lifetime cocaine use (i.e., powder and/or crack cocaine) as compared to Blacks and Hispanics (16.9%, 9.7%, and 11.6%, respectively), but smaller differences for past-year use (1.9%, 1.8%, and 1.7%, respectively; SAMHSA, 2013c). For crack use specifically, Blacks were more likely to report lifetime use as compared to Whites and Hispanics (4.6%, 3.7%, and 2.3%, respectively), as well as past-year use (0.8%, 0.3%, and 0.1%, respectively; SAMHSA, 2013c). Possessing cocaine places an individual at risk for arrest and incarceration, which can lead to health consequences and loss of federal rights and benefits (e.g., student loans, housing, food stamps) (US Department of Justice, 2013; US Government Accountability Office [GAO], 2005).

Cocaine has been a controlled substance in the US since the enactment of the Harrison Act of 1914, and cocaine was scheduled under the Controlled Substances Act in 1970, which defined modern drug regulation (Musto, 1999; Spillane, 2004). However, a smokable rock form of cocaine—crack—emerged, and became

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widely available in most US cities by the mid-1980s (Vagins and McCurdy, 2006). Crack was sold in smaller quantities than powder cocaine and thus at less expensive prices, and as a result use was highly prevalent in inner-city drug markets in urban America (Vagins and McCurdy, 2006). The introduction of crack markets was followed by largely unsubstantiated claims that crack is more dangerous than powder cocaine and warranted heightened penalties (Hatsukami and Fischman, 1996; US Sentencing Commission [USSC], 2014a; Vaughn et al., 2010). Notably, in 1991, the likelihood for serving time for a violent crime while under the influence of crack or powder cocaine was found to be similar (Leigey and Bachman, 2007). Moreover, although Vaughn et al. (2010) found that crack was associated with higher likelihood of violence in bivariable analyses, there was no increased likelihood for violence after controlling for demographics, mood disorders, and other substance use disorders.

The Anti-Drug Abuse Act of 1986 was the first federal criminal law to differentiate crack from other forms of cocaine, establishing a 100:1 weight ratio as the threshold for eliciting the required five-year "mandatory minimum" penalty upon conviction of possession (USSC, 2011, 2014a; Wallace, 2014). Specifically, the penalty for possessing 500 g of powder cocaine was comparable to possessing only 5 g of crack (Kleiman et al., 2011). The Fair Sentencing Act (2010) reduced sentencing disparities to 18:1, but sentencing disparities remain and the law is not retroactive, thus, those arrested prior to enactment remain in prison. The Smarter Sentencing Act (2014) was proposed in 2014 to create less costly minimum terms for nonviolent drug offenders and to allow for the 8800 federal prisoners (87% of whom are black) imprisoned for crack offenses to be resentenced in accordance with the Fair Sentencing Act. However, the bill was not enacted.

The longstanding differential incarceration rates and lengths of sentences for crack and powder cocaine users have disproportionately affected African American communities (Lowney, 1994; Vagins and McCurdy, 2006; Wallace, 2014). Spohn (2013) examined racial disparities in sentences from drug-trafficking cases in three US district courts and found that, compared to White men, Black and Hispanic men were significantly more likely to be detained prior to adjudication and received significantly longer sentences. African Americans are also more likely to be convicted for crack offenses, while powder cocaine convictions are more common in affluent white communities (USSC, 1995; Vagins and McCurdy, 2006).

The vast majority of offenders convicted of crack trafficking offenses are African American (83%; USSC, 2014b). This is significant as data collected from several prominent social justice groups, such as the American Civil Liberties Union (ACLU) and the Drug Policy Alliance (DPA), report that African Americans comprise only 15% of regular drug users, but represent 37% of individuals arrested, 59% of those convicted, and 74% of those sentenced to prison for drug offenses (DPA, 2014; Vagins and McCurdy, 2006). In 2003, African Americans accounted for over 80% of those sentenced for crack offenses even though whites and Hispanics accounted for over 66% of crack users (Vagins and McCurdy, 2006). It has been argued by advocates and members of Congress that federal prosecution and sentencing should be equalized in order to end disparities embedded in the law (Scott, 2013; Vagins and McCurdy, 2006).

Aside from a host of negative adverse health outcomes commonly associated with use (NIDA, 2014; Washton and Gold, 1984), cocaine use and possession can also have profound social consequences, including increased crime and imprisonment, which changes family structure and makes father less available (Williams and Latkin, 2007). According to Monitoring the Future (MTF), a nationally representative study of high school seniors, by age 27–28 about one in five adults has used cocaine (Johnston et al., 2013). Consequently, policy for cocaine-related offenses has the potential to impact a substantial portion of Americans.

Most of the current literature on arrest and incarceration is derived from the penal system with little self-reported data. Guided by a fundamental causes perspective (Link and Phelan, 1995), which posits that socioeconomic status (SES) is a fundamental cause of health disparities, we utilize a recent national dataset of self-reported data on crack and powder cocaine use with a larger sample, focusing solely on adults, in order to explore the most current disparities in use, which continue to have profound legal consequences for users.

## 2. Methods

### 2.1. Sample

Data were examined for the four most recent cohorts (2009–2012) of the National Survey on Drug Use and Health (NSDUH), an ongoing cross-sectional survey of non-institutionalized individuals in the 50 states and District of Columbia (SAMHSA, 2013b). NSDUH is a nationally representative probability sample derived through four stages: first, census tracts were selected within each state; then, segments in each tract were selected; then dwelling units were selected, and finally, respondents were selected. Surveys were administered via computer-assisted personal interviewing conducted by an interviewer and audio computer-assisted self-interviewing (ACASI), which helps maintain privacy and confidentiality, and thus increases honest reporting. Blacks and Hispanics were oversampled to increase precision estimates. Respondents were asked about socioeconomic characteristics, arrests, and drug use.

Sampling weights were provided by NSDUH to address unit- and individual-level non-response. They were adjusted to ensure estimates are consistent with estimates provided by the US Census Bureau. Since this analysis utilized aggregated data from four cohorts (to increase sample size), weights were divided by 4 (the number of combined datasets). Further information on sampling and survey techniques can be found elsewhere (SAMHSA, 2013b). We aggregated data from all cohorts and examined data for adults, age $\geq$18 ($N$ = 154,328).

### 2.2. Demographic and socioeconomic variables

We examined subject sex, race (i.e., white non-Hispanic, black non-Hispanic, Hispanic, other race), and population density, which was measured in terms of metropolitan statistical areas (MSAs). We also examined employment status, educational attainment, annual family income, and marriage status. In addition, we examined whether the subject's family received public assistance and whether he or she reported having health insurance.

### 2.3. Arrest

Subjects were asked if they had ever been arrested and booked for breaking the law (not counting minor traffic violations). Of those who had been arrested (and booked), they were then asked how many times they had been arrested in the last 12 months. We coded these variables into 1) lifetime arrest (dichotomous), 2) arrested more than once in the last 12 months (dichotomous), and 3) a trichotomous variable indicating no recent arrests, one recent arrest or more than one recent arrest.

### 2.4. Cocaine use

Subjects were asked if they had ever used any form of cocaine. They were reminded that cocaine comes in different forms such as powder, crack, freebase and coca paste. Those who said they used cocaine were asked a follow-up question about crack, which was defined as "cocaine in rock or chunk form, and not the other forms of cocaine." We recoded lifetime cocaine use into a trichotomous variable indicating no use, powder cocaine-only use and crack use. Since use of coca paste is uncommon and freebase is generally homemade from powder cocaine, we considered non-crack use powder cocaine use. Lifetime users were also asked when they last used. We coded a similar 12-month ("recent") use trichotomous variable derived from their indication of last use, into no use, powder cocaine-only use, and crack use. Recent users were also asked to report number of days used in the last year. We recoded these variables to separate frequency of crack use from frequency of general cocaine use.

### 2.5. Analyses

We first computed binary logistic regression models to examine potential unconditional and conditional associations between cocaine use and lifetime arrests. Similar models were then computed with multiple arrests as the binary outcome variable (among those who had ever been arrested). Next, we computed similar models to examine lifetime arrestees, but in a multinomial fashion, examining

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