

Fall 12-2022

Intersectionality Pertaining to the Disproportionate Rates of Black Women in Prisons and Jails

Mackenzie Heller
Portland State University

Follow this and additional works at: <https://pdxscholar.library.pdx.edu/honorstheses>



Part of the [Criminal Law Commons](#), [Other Political Science Commons](#), and the [Political Theory Commons](#)

Let us know how access to this document benefits you.

Recommended Citation

Heller, Mackenzie, "Intersectionality Pertaining to the Disproportionate Rates of Black Women in Prisons and Jails" (2022). *University Honors Theses*. Paper 1288.
<https://doi.org/10.15760/honors.1319>

This Thesis is brought to you for free and open access. It has been accepted for inclusion in University Honors Theses by an authorized administrator of PDXScholar. Please contact us if we can make this document more accessible: pdxscholar@pdx.edu.

Intersectionality pertaining to the Disproportionate Rates of Black Women in prisons and jails.

By: Mackenzie Heller

An undergraduate honors thesis submitted in partial fulfillment of the requirements for the
degree of
Bachelors of Arts

In

University Honors

And

Political Science

Thesis Advisor
Sarahfina Peterson

Introduction

Incarcerated women are among the least visible population in American society (J. Fryer). While their incarceration rates are growing they are still looked over in the media. Their lack of a presence in society is dangerous for all of us. It takes away their part of the narrative, leaving Americans with only what Hollywood and mass media feeds us. Black women are among the largest demographic of women who are filling prisons and jails. In order to understand what is occurring and what is leading Black women to this situation I will be examining the intersection of their identities to see how they work and interact with society.

There is a social phenomenon occurring within the United States that isn't being discussed. This phenomenon has two parts: the social suppression of Black women in society and the growing rate of women, particularly Black women, in the United States prison system. There are multiple aspects that go into this phenomenon of increasing prison populations. This paper will dive into the cultural issues that Black women face. Furthermore, we will look at the misunderstanding of what society believes and what truly happens to women who are faced with prison time. I will explore why it seems that most Americans do not know about the issues of the criminal justice system, and why most of us do not know about these cultural issues or why the media neglects to discuss them.

The growing number of Black women in the prison system has grown dramatically in the United States. However, while this number is still growing "their voices are rarely heard in the public forum" (J. Fryer). Today the United States is seeing women flood the prison system at a 4.6% annual increase from 2005 (ACLU). Resulting in 7% of the state and federal prison population being women. That is approximately one million women behind bars every year (give or take those who exist the system). Currently, women are eight times more likely to end up in jail than their male counterparts (ACLU). While men do still make up the majority of those in prison we are seeing their imprisonment rates fall in comparison to the level of women entering the carceral system. Women who have entered the incarceration system are largely absent in the media and the most powerful reason found for this, is the intersection of gender and race. Furthermore, many of these women are often seen as an afterthought when conducting research in regards to

the carceral system. These claims may be bold, however, as will be discussed later, white persons are far more often to appear in the media when something distressing happens.

Below, I will discuss the social exclusion of Black women in the United States and its correlation with the increase of this same population within our carceral system. This will be analyzed from the Black Feminist perspective and will give light to the narrative that is often overlooked. Part one of my paper will focus on the explanation of how each aspect of a Black women's identity in America shapes how the world operates around them. In the second part of my paper, I will look at how all of these different aspects work together and often against women, in terms of the judicial system. This will be done by focusing on qualitative research detailing the stories of minority-race women who have become system-involved. In the third part, I will make connections between the women's stories and the pressures and lack of support that can lead to incarceration.

Background

There is a term known as *exclusionary politics*, which is the social and political exclusion of marginalized groups. The practice of exclusionary politics is reflected in many ways, for this paper I will focus on the judicial side of exclusionary politics for this paper. One prime example of exclusionary politics can be seen in a case from 2012 with Marissa Alexander who lived in Florida and was charged with aggravated assault. She was charged due to "firing a warning shot during a confrontation with her estranged abusive husband—a man against whom she had a restraining order (Gross)". This exchange only happened because she wanted to scare off her ex-husband. At that time Florida's stand-your-ground law did not include warning shots. However, in 2014 the Stand your ground law was reworked and it included warning shots. The judge in her case said that the "amended statute could not be retroactively applied", charging Alexander with 20 years in prison (Gross). Alexander is not the only woman who faces this injustice. Many women face a higher burden of proof that they need to meet. The "chief narrative available to women who fight back" is called Battered Women's Syndrome. This use of Battered Women's Syndrome sends "legal and social message[s] [that] women should retreat even from their own homes in face of objective, repeated harm to their bodies..." (Franks) While men,

particularly white men have been rather successful in using stand-your-ground laws even in scenarios of deadly force. A famous example of this affirmative use of stand-your-ground is George Zimmerman's case. Zimmerman successfully used the stand-your-ground defense in 2012, after killing an unarmed Black teenager- Trayvon Martin, he was acquitted of all charges. The stark difference that Black scholars point at is race.

There is a clear pattern looking through casework and decisions made by judges and juries, Black women and men are disproportionately convicted at higher rates than their white counterparts. Black feminist scholars point to the lack of protection the law provides for Black women, and yet they cannot escape the punishments of the law. Their arguments are rooted in cases like Ms. Alexanders, where Black women are convicted to maximum-length sentences for their crimes, even after the laws are amended. While times are changing and inclusion is becoming a bigger part of the national conversation when it comes to political and cultural issues, many Black scholars see laws the same way they did hundreds of years ago. They still believe that today's laws support the colonial and antebellum judiciaries, which leaves no recourse for redress (Gross). This being said, it should be noted that Black feminist theory is not rooted in incarceration disparities, rather it is rooted in Black women's oppression, which can often be tethered to incarceration (Burnham). In this understanding of Black feminist theory, it is easy to understand that Black women have been criminalized, discriminated against, and even killed for their existence.

Since the founding of this country, we have seen Black women classified as "other". They were not as strong as Black men in farming and while they did farm fields, a large portion of the women were put into housework (Gross). When moving away from slavery they did not fit in with white women in fighting for women's freedoms. During the Seneca Falls Convention, it was starting to become clear that white women and Black women wanted different outcomes. Many white women did not view Black women the way they viewed their other white feminists. Many of the women in the suffragette movement were overtly racist (Feminism) and therefore, the races separated. It took until the 1960s for Black women to create their own feminsit movement that supported their ideals and dreams for a more equal union. Many of the Black women of that time also joined the civil rights movement led by Martian Luther King Jr., Malcolm X, Rosa

Parks, and so on. During that same time (1963-1968) we see Black women make their way into the work force through house cleaning as (typically) uneducated women. This horizontal movement led to many of the women still being treated as 'other'. Many of the women were looked down upon and feared by their employer. This fear came from not understanding them and seeing them as something else. They were seen more as a spectacle, something that was separate from white society (Summer). Today Black women are still an 'other'. While society seems to have become more inclusive, many of the laws haven't changed. Furthermore how the laws are enforced hasn't changed. As mentioned prior, Black women are not protected by the same laws that protect white women (Gross). Through exclusionary politics, the laws that are placed on all citizens in this country are viewed differently depending on the person who is violating the law, and in turn who is enforcing it. Part of the issue of being excluded from societal norms means that society does not have safeguards in place to protect you. The laws governing Americans are meant to protect everyone who is a citizen on our soil, although, it appears that Black people are an afterthought. In order to explain how laws differ I will refer to *laws on the books* and *laws in action*. Laws on the book are what is written, this is the inclusion side of things, while laws in action tend to be exclusionary in how they are enforced. This can be seen through police brutality, higher conviction rates, over-policing, and so on. In essence, *laws in action* are how they are enforced in reality. This difference is important to understand in order to find the gaps in the system that many people overlook.

Race

In the United States, Black Americans make up 33-34% of the prison population. While the overall U.S. population of Black people is just 13%. This means that the Black American population in prison is triple the population of the general populous in the United States. White Americans are seeing approximately 450 per 100,000 people end up incarcerated (approximately 30%), while they make up 63% of the U.S. population (Gramlich). This discrepancy in incarceration rates can be pointed to a number of things that has happened over the years. One of the prominent reasons can be the government's declaration of war against, drugs and crime. These declarations did not have inherent targets. However, through laws in action we can see that the war on drugs was not inherently targeted at the average middle-class (white) American, rather they appeared to be targeted to the lower-income, inner-city (Black) individuals who lived

around and in 'crime-infested' areas. This is in part due to white flight to the suburbs. Moreover, there was a preconceived notion that Black people are the ones that do dangerous activities and are dangerous people. For example, buying and selling drugs in society's view is done primarily by Black Americans. Although, according to the National Survey on Drug Use and Health, 8.1 million African American adults (18+) had a substance abuse disorder/mental illness in the past year. White Americans saw 57 million (22.5%) engaged in drug use in their lifetime and in the last year. Comparing population sizes to percentages to have a more even comparison, White Americans are using 2-3% more than Black Americans. This equates to approximately 2-3 million more people engaged in drug use. While the numbers are close between the two races, White Americans are now making up more of the illicit drug use population in the United States. (Lautieri; Kelley)

While there are many reasons these acts of 'war' were declared, they had a very real impact on citizens of lower-class communities. To this day 1 in 5 people are convicted for drugs, and approximately 40% of those people are Black individuals. While I don't want to drive too deep into this aspect of race-related drug offenses, I will mention that over half of these offenders are charged with possession. Only a small fraction of these offenders are actually selling products. These drug charges are also great income tools for police bureaus making over 1 million dollars in revenue from these arrests through civil forfeiture (Wagner; Sawyer). The main issue with the war on drugs and crime is that police bureaus are going to focus their attention on the city where predominantly more minorities live. The other half of this argument is that cities have higher drug use therefore they police more heavily there. My counterargument to this is that while this may have been true in 1999, it no longer is. According to the CDC, nonmetropolitan (rural) areas are seeing higher levels of drug use and overdose than metropolitan (urban) areas. Yet, arrests in metropolitan areas are still much higher than in rural areas.

Gender

In 2008 the National Institute of Justice found that all women ages 35-39 had a 1 in 297 chance of going to jail or prison. For white women, it was 1 in 335 and for Black women it was 1 in 100. These statistics can be quite shocking considering several factors, like for instance more than 60% of women in state prisons, and nearly 80% of those in jail, have children who are minors. Unlike

fathers who are incarcerated, most incarcerated mothers are single mothers, solely responsible for their young children. With that said, at least five million children have had a parent incarcerated. *The New York Times* reports, that Black, poor, and rural children are disproportionately affected (Urell). This in part may be due to the almost unavoidable pre-trial holding for most women (and men). “The number of unconvicted women stuck in jail is surely not because courts are considering women to be a flight risk, particularly when they are generally the primary caregivers of children. The far more likely answer is that incarcerated women, who have lower incomes than incarcerated men, have an even harder time affording money bail. When the typical bail amounts to a full year’s income for women, it’s no wonder that women are stuck in jail awaiting trial” (Kajstura). This intersection with class or socioeconomics will come into focus more below. However, for now it should be noted that these women are often leaving the system with far less than they had before (see intersectionality section p.g. 7). Being held in jail waiting for your hearing and possible trial can truly curtail any persons life and their ability to create new habits and avoid the old ones that led them to prison or jail in the first place.

More often than not women in prison are untreated substance abusers. High recidivism is correlated with greater addiction severity. “Typically, each return to incarceration signifies a deeper level of addiction, with associated declines in health, employment opportunities, and social functioning. The quantum increase in incarceration for women is linked directly to drug and alcohol addiction, yet little has been done to address the issue” (Alleyne). The main problem that scholars believe is the root cause for this continual cycle is the lack of rehabilitation facilities for most women (and men). There tends to be a waiting list and they don’t often go above capacity to meet the demands. Furthermore, is also the question of how long a drug facilities program will last compared to the time you can serve in jail or prison. Typically, most people opt for the least amount of time, which can often be the plea deal or the use of time served to decrease the amount of time left. All of these small factors can add up and change how women move through the system. Quite regularly these factors lead women to pleading to a high charge due to the time they would have spend away from family or their homes being shorter than the alternative (a trial or rehabilitation).

Black women who are serving time behind bars are often forgotten by society once they get in there. As elegantly put by Ms. Fryer, “in an age of collective amnesia, it is easy to discard experiences that are not convenient”. The American public does a rather good job of hiding blemishes from our society and our collective memory. Incarcerated women by their very nature are silenced and invisible to our society (J. Fryer). While the aspect of race in prison has become a topic of contention and debate, women are rarely the focal point of the frame (Crenshaw).

The unique social standing that Black women hold in this country when listened to, can provide counterpoints to the master narrative of how society views the penial system. The stories of these women offer the truth about the history of abuse that women face, the unjust separation between mother and child, and the ineffectiveness of the efforts put forth by the United States through its corrections facilities (J. Fryer). This lack of effectiveness is seen rather clearly when it comes to drug offenses. Women alone make up 40-80% of drug possession cases and they have a 62% recidivism rate (Mannerfelt). Considering that charges dealing with drugs make up the largest percentage for women, the judicial success rate is quite low. It can plainly be stated that jails and prisons in the United States are not meant to deal with people who have drug problems.

Socio-economic background/Disenfranchisement

Black people make up 19.5% of those living in poverty. They make up the largest percentage of those in poverty compared to the other demographics. In fact, the poverty rate for Blacks and Hispanics is more than double that of non-Hispanic/Whites (Federal Safety Net). In the eighteenth and nineteenth centuries poverty for many Black Americans is often due “in large part to being limited almost exclusively to domestic service and agricultural work. Domestic service in particular imperiled Black women because they were vulnerable to sexual harassment in white homes and also profoundly susceptible to white employers’ accusations of theft” (Gross). Today the poverty rate is due to many things, one of these factors does include the white flight previously mentioned in the *Race* category. Other factors are a lack of jobs available in the area, over-policing, lack of education and so on. There are numerous external factors that play into the wealth of an area (e.g. job availability). Whatever the specific reason is for one individual may be different for the next individual. No matter what these causes are it should be noted that if you are poor and Black in this country, you will be worse off than your fellow poor white

counterpart. There is a saying that goes something like: ‘the poorest white person will still be wealthier than the poorest Black person.’ This saying comes from the idea that Black people are not valued equally to their white counterparts. It also comes from the idea of a caste system.

In America, we claim that we do not have a caste system. However, by definition, a caste system is a social hierarchy characterized by the hereditary transmission of a style of life which often includes an occupation, customary social interaction, and exclusion based on cultural notions of purity and pollution. In other words, it is a social system that can dictate the profession, the social lives, and even who you can marry. This caste system is passed down from generation to generation. “Intersectionality also points to the relationships between established hierarchies that structure the relative vulnerability of subjects to the public and private exercises of social power” (Crenshaw). In the United States, this can be predominantly seen in the class division that is continuing to grow. The rich get richer and stay in their social circles where they are amongst other wealthy people and the poor get poorer and tend to stay in social circles that include people of their class and maybe even branch into social circles of the lower middle class. While the United States may not be rigid in how we live within our caste system, we do have a social hierarchy. We do value certain social circles more than others and we do place expectations upon certain classes. Furthermore, due to the cycles of poverty and the cycles of wealth, we are seeing that the family you come from matters in terms of financial security. From generation to generation, people will inherit wealth from their parents and grandparents and through lower-income families, they might inherit the financial struggles of survival.

For many Black women, economic standing is very important to understand why their stories are the way they are. In judicial matters, most people do not have money for bail or to hire private counsel. Not having the money for bail means waiting in jail until your case is done. To put it in perspective, the median bail for all crimes in 2018 was set at \$10,000. You have to pay 10% of that in cash, which equates to \$1,000 that you have to post. Considering the intersection of the socio-economic side of this paper, most of the women who end up in jail do not have \$1,000 to give. Furthermore, many of these women’s income is not much more than \$11,000-\$12,000 a year (Sawyer, Wagner). Black women who are most likely to encounter the criminal legal system and be incarcerated are Black single mothers from structurally disadvantaged communities

(Williams, Spencer, Wilson 2020). This specific demographic is often overlooked when discussing the criminal justice system. Many mothers who enter the system lose their children to the foster care system. It is not uncommon for women lose contact with their children they don't know where their children are. Furthermore, part of the downfall of being in jail is the lack of resources to contact your public defender or anybody on the outside for that matter. In jail the charges for a phone call are often 2-3 times more expensive than they are in prison (Alleyne). There are many times that public defenders will meet their clients in the courtroom before the judge arraigns them. This flaw within the system impacts those who do not have strong economic backgrounds more than those who are financially well off. The financial aspect for many of these women dictates how they move through the system, what choices they make, and how stable (financially) they are when they are released. Most women, just want to see their family again and will plead to felonies for short sentences due to time served, will opt to not go to trial so they don't have to spend more time in over crowded jails, and will often take plea agreements with the shortest possible time even if it means the offense looks bad on paper (Alleyne). Often times many women who enter plea agreements do not know the full ramifications of admitting guilt to felony charges or even misdemeanor charges. This will be seen in Vivian's case below.

Many Black women living in poverty or close to it are often being helped by governmental subtleties (i.e. food stamps, welfare, public housing, etc), when a person pleads to felony, those governmental assistance programs are no longer available for you. If you have children, getting them back is incredibly difficult. This is due to the state wanting you to obtain a job and stable housing before you are given custody of your children. The unfortunate reality is that women end up in homeless shelters while looking for a job that won't care about their felony convictions (Alleyne). These jobs are often low-paying jobs, meaning earning enough money to get an apartment or house takes a long time. There is a need to call attention to the importance of undercutting state infrastructures, as potential 'weapons' of oppression and repression against marginalized groups--especially as they are the ones who use it the most. Putting laws in place that make obtaining certain kinds of government assistance more difficult, in turn, makes staying afloat become more difficult (Williams, Spencer, and Wilson).

Intersectionality

The role race, gender, and socio-economic positions play in society are far more interlinked than previously thought. According to Judge Rudolph Gerber, if the rate “of imprisonment continues, 1 in 20 children born today will experience incarceration” (J. Fryer). While these facts are not comfortable to discuss, they need to be. The national prison population has risen over 500% since 1972, while the general population only increased by 28%. A disproportionate section of the carceral system is Black and the disparity is even greater for Black women.

Kimberlé Crenshaw, a scholar in American civil rights and a leading scholar in critical race theory, has laid a foundational understanding of how we can think about Black women in society. In her *Ted Talk*, she discusses the way society thinks about Black women and men, and that we typically do this in frames. Crenshaw says that, “when facts don't fit with the available frames, people have a difficult time incorporating new facts into their way of thinking about a problem” (Crenshaw). Therefore, the names of women, specifically Black women, slip through the social consciousness it is because there are “no frames for us to see them or hold them” (Crenshaw). Consequently, we see a lack of news stories, a lack of policy change, and a lack of push to change the existing system.

Not having the social awareness to allow people to slip through the cracks results in more women falling victim to punitive laws that have become more strict over the years (J. Fryer). There are “greater numbers [of women being locked up] due to punitive laws and practices, as well as in shifts in law enforcement policies, not because of significant changes in [Black women's] behavior” (J. Fryer). Rather it is due to *laws in action* and how these laws are being enforced for certain demographics. To better understand this claim it should be known that it has been reported that in 1986, nearly 66% of women convicted of federal crimes were placed on probation. But in 1991 only 28% (of women) received similar treatment. This pattern has only intensified over the years, in 2020 only 11% of the female population was out on parole (Sentencing Project).

A question that comes up is why is it primarily Black women who face this burden of injustice. Why do so many factors come together to work against these women? From 1794 to the 1950s,

there was a 60% or higher population of Black women in the criminal justice system. Moving to 2011 that number “went upward of 1 million women who were either “incarcerated or otherwise under the control of the justice system” (Gross). Black feminist scholars believe that the incarceration rates of Black Women reflect the history of their social exclusion in the U.S. (Willingham). This thought process can be linked to exclusionary practices when enforcing the laws, not providing the same protection to Black women as what is given to white women. A major point of tension for Black scholars is the percent of Black women who have reported a history of domestic and sexual violence (85-90%) as opposed to 22.3 percent of women nationally” (Gross). The continual threat of violence without help from authorities makes it easy to feel trapped. Many women take justice into their own hands, by firing warning shots, injuring their partner in order to escape, or they turn to a life of drugs and alcohol abuse so they can tolerate the day-to-day (Gross). This history of violence against them can lead to their own imprisonment instead of their partners’ imprisonment. As in Marissa Alexander’s story when she fired a bullet into the air to warn her partner off, she was met with the full force of the law against her.

Crenshaw makes note that “intersectionality dynamics are not static, but neither are they untethered from history, context, or social identity.” This simply put, means that as new social and cultural issues emerge and others are solved, for the time being. The issues plaguing Black women shift to match the times. For certain communities, the intersection of domestic violence can play a role in how someone walks through life. The intersection of all previously mentioned aspects of a person (race, gender, class) can intersect here as well and can affect how they are penalized for a crime or how they are forgiven, by having a lighter sentence. In 2014 a study by “The Federal Bureau of Investigation data and media reports found that in 57 percent of the cases [where] the shooter had killed a current or former intimate partner, “the shooter had a prior domestic violence charge” (Gross). The justice system is letting down an entire demographic of people. Rather than charging Black women who are suffering from domestic violence, they should be doing something about the violence that led them to this point. It is best put by Kali Gross: “exclusionary notions of protection have created a need for Black women to trade in extralegal violence for personal security”. The intersection of interpersonal violence and race and gender play into a woman's outlook on life, job opportunity, and safety. The feeling of being

often overlooked by a system that is meant to protect you can often lead to vulnerability within the justice system.

The Story of Vivian

Vivian's story can be used as an illustration of the prison system and the effects it has on Black women. "A large number of [incarcerated women are] mothers, grandmothers, or single breadwinners" (Alleyne). Their primary offenses prior to arrest were being poor and often having a substance abuse problem (Alleyne). Approximately 40% of the crimes women committed had drugs involved in some way.

This leads us to Vivian (Alleyne). Vivian was 31 when she was interviewed by Vanessa Alleyne and for her protection they changed her name to Vivian. She was arrested with unprescribed pills in her pocket- Vicodin, which she used for back pain. This was her second arrest for drugs. The first time, she just happened to be in a car with a man who had drugs and due to this she too was given probation. Vivian has two children, a boy, and a girl. When she was taken to jail for her second offense she lost contact with her children. They were put into the foster care system and much later she learned that they were separated. From the time she arrived in jail to her actual sentencing, it was approximately 6 months before she got a plea deal offer from her lawyer. She was left with an offer of three years in prison (pleading to a felony) or nine months with good behavior. In spite of that, she wanted treatment to beat her drug habit, so she rejected the offer. She got her name on a list for a drug rehabilitation facility and interviewed there. The assessment process took two and half months, which Vivian found out later was rather speedy. Once she was approved for the rehab facility they required a commitment of 12-18 months for their inpatient program. One month after being approved, the facility had a bed for her, again this was quite speedy. By this point, she had spent nine months in jail. She now faced the decision of spending even more time away from her children or trying to renege on the plea. By this time, she still hadn't heard from her kids, or her boyfriend and was feeling alone and depressed, so she opted for freedom. She decided to attend outpatient treatment daily after prison and to get her children home to her. She pleaded to the felony charge and was sentenced to three years. The prison she was sent to was operating at 138% capacity. Four months later (a total of 10 months in jail and prison), she was released, given a bus ticket to a major city near her neighborhood and five

dollars. When she got back to her neighborhood she put her name on a list for a homeless shelter and spent the next number of nights there.

During her time in prison and jail, she lost her apartment, all of her belongings, and all of her children's belongings. Her story is not unique. She, unfortunately, is viewed to outsiders as nothing more than a statistic. She is just one of many who experience a lack of justice. The entire purpose of the justice system is to allow for reform to occur. However, it is far more likely to be in a situation like Vivian's, where you are deciding between true help, and getting your life back.

Part of the issue also includes bail. Bail is determined by the judge; the defendant has to pay 10% of that in cash and the hearing itself typically lasts no more than a few minutes and often there is typically no counsel present. Popular culture is slowly getting involved in issues surrounding the justice system. For example, John Oliver's *Last Week Tonight* did a segment on the bail reform laws taking place in a number of states. However, even while Mr. Oliver was doing this segment, women were not included. Two different Black men were featured for interviews but no women were (Oliver). As mentioned by numerous scholars in doing research for this paper, women are as often seen as an afterthought when it comes to political or judicial issues (Alleyne, Crenshaw, Gross, J. Fryer). Article after article says that women, especially Black women are the leading demographic when it comes to the rate of imprisonment, and yet they are still not having their voices heard.

Oppression of certain marginalized groups can often be linked to intersectionality. Crenshaw mentions in her paper that the oppression of certain demographics is often linked to the social and cultural issues of the day. Intersectionality is not just the physical characteristics of a person, but it is also tied to the external aspects of our daily lives. For example, the ability to pay bail. Part of the reason why Vivian's story is not unique is because of how long she was waiting for her conviction hearing to happen. In many aspects, she is lucky it happened that quickly. During this time while she was waiting for the judicial process to start, she lost her apartment, her kids, and her belongings. In the story done by John Oliver, one of the men interviewed said he spent 11 months in Rikers State Penitentiary waiting for his arraignment- this is the first hearing a defendant gets. When the public defender and prosecutor finally got to his case they said if he

pled guilty to the felony charge he could go home that day. So, he did, even though he is adamant about never committing the crime (Oliver). These stories play over, again and again, every day in our justice system, and while society is slowly catching up to the reality of the situation that is our justice system.

The intersection of wealth with the justice system is vital if you ever get arrested. With money, you can buy your way out, pay for the best lawyers, and maybe even only do parole. The American Justice system has favored those with wealth since the beginning, and today we are seeing the repercussions of our actions with overcrowded jails and prisons, judicial dockets at over 100% capacity, overworked public defenders, and over-policing of Black and Brown communities. Many states are already seeing the collapse of the system by not having enough public defenders to serve as counsel for those who need it, Oregon, happens to be one of those states (Sparling).

Conclusion

All too often Black women in the justice system are heavily looked over and forgotten about. Black women have been an afterthought for many years now, but it is time that their stories are heard. It is not common that their stories make headlines and it is rather convenient to pretend that the judicial system works. It is time, however, that we draw attention to the scars and blemishes that make up the carceral system and that we address the injustices that the people who enter the system have to face. The justice system is far from fair and equal, the deeper you dive the more injustices appear. The people who are affected by the inequities of the system are far too often Black and Brown persons. This paper was meant to shed light on the inequities that Black women face. Their unique position in American Culture is one that only they can relate to. However, until *laws in action* match the *laws on the books* about equality under the law, when judicial reform makes it easier to obtain counsel, and when the time spent behind bars is no longer than your maximum allowable sentence upon conviction would even be, we will not see true change and more and more women and men will be faced with the uncertainty of ‘justice’.

When the day comes when Black women start continually being asked and included in the conversation about the injustice happening within our carceral system is the time that we will see

progress being made for inclusion. This paper only scratches the surface of one aspect of the many issues at play. Intersectionality in relation to race, gender, and socioeconomic standing is just one factor in the chain of events that interlinks many of the injustices that surround the justice system. I aimed to bring to light many of the intrinsic inequalities that only one demographic faces. There are many more problems that are corrupting our justice system and it is time that we pay attention to them.

Bibliography

Alleyne. (2006). Locked up means locked out: Women, addiction, and incarceration. *Women & Therapy*, 29(3-4), 181–194. https://doi.org/10.1300/J015v2903_10

Bryant, E., Dholakia, N., & Owen, B. (2021, May 7). Women's incarceration rates are skyrocketing. these advocates are... Vera Institute of Justice. Retrieved February 15, 2022, from <https://www.vera.org/blog/womens-voices/womens-incarceration-rates-are-skyrocketing>

Burnham, L., Jaye, D., & Lawrence, W. (2022, January 20). The activist roots of Black Feminist theory. *Convergence*. Retrieved November 1, 2022, from <https://convergencemag.com/articles/the-activist-roots-of-black-feminist-theory/>

Buss, Madeline S., "How Schools Encourage Incarceration: The School-to-Prison Pipeline and How It Fails Our Children" (2019). University Honors Theses. Paper 767. <https://doi.org/10.15760/honors.785>

CDC Reports Rising Rates of Drug Overdose Deaths in Rural Areas.” *Centers for Disease Control and Prevention*, Centers for Disease Control and Prevention, 19 Oct. 2017, <https://www.cdc.gov/media/releases/2017/p1019-rural-overdose-deaths.html>.

Corlette, N. (2022, January 25). Media's dangerous ignorance of missing people of color. *Harvard Political Review*. Retrieved November 1, 2022, from <https://harvardpolitics.com/missing-people-of-color/>

Crenshaw, Kimberlé, director. *The Urgency of Intersectionality*. Kimberlé Crenshaw: *The Urgency of Intersectionality | TED Talk*, 14 Nov. 2016, https://www.ted.com/talks/kimberle_crenshaw_the_urgency_of_intersectionality?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare. Accessed 7 Nov. 2022.

Crenshaw, Kimberlé W. “From Private Violence to Mass Incarceration: Thinking Intersectionally About Women, Race and Social Control.” *UCLA Law Review*, 2012, <https://www.uclalawreview.org/pdf/59-6-1.pdf>.

Facts about the over-incarceration of women in the United States. American Civil Liberties Union. (2022). Retrieved November 1, 2022, from <https://www.aclu.org/other/facts-about-over-incarceration-women-united-states>

Federal Bureau of Prisons. BOP Statistics: Inmate Gender. (2022, October 22). Retrieved November 1, 2022, from https://www.bop.gov/about/statistics/statistics_inmate_gender.jsp

Feminism and Race. Encyclopedia of Race and Racism. . Encyclopedia.com. 28 Oct. 2022
<<https://www.encyclopedia.com>>.

Feminist Studies Vol. 8, No. 2, Women and Work (Summer, 1982), pp. 235-269 (35 pages)

Gramlich, John. "Black Imprisonment Rate in the U.S. Has Fallen by a Third since 2006." Pew Research Center, Pew Research Center, 6 Aug. 2020,
<https://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/>.

HBO. *Bail Reform: Last Week Tonight with John Oliver (HBO)*. YouTube, 30 Oct. 2022,
<https://youtu.be/xQLqIWbc9VM>. Accessed 7 Nov. 2022.

Hoeg, Natalie. "Substance Abuse in Rural vs. Urban Areas." *Addiction Center*, 26 Oct. 2022,
<https://www.addictioncenter.com/community/substance-abuse-rural-vs-urban/>.

Incarcerated Women and Girls - Sentencingproject.org. *The Sentencing Project*, 2020,
<https://www.sentencingproject.org/app/uploads/2022/08/Incarcerated-Women-and-Girls.pdf>.

Initiative, Prison Policy. "Race and Ethnicity." Prison Policy Initiative,
https://www.prisonpolicy.org/research/race_and_ethnicity/.

Jill Viglione, Lance Hannon, Robert DeFina, The impact of light skin on prison time for black female offenders, *The Social Science Journal*, Volume 48, Issue 1, 2011, Pages 250-258, ISSN 0362-3319, <https://doi.org/10.1016/j.soscij.2010.08.003>.

Kajstura, A. (2019, October 29). Women's mass incarceration: The whole pie 2019. Women's Mass Incarceration: The Whole Pie 2019 | Prison Policy Initiative. Retrieved February 15, 2022, from <https://www.prisonpolicy.org/reports/pie2019women.html>

Kali Nicole Gross, African American Women, Mass Incarceration, and the Politics of Protection, *Journal of American History*, Volume 102, Issue 1, June 2015, Pages 25–33,
<https://doi.org/10.1093/jahist/jav226>

Lautieri, A., & Kelley, R. (2022, November 2). *Addiction demographics: Substance abuse statistics*. Sunrise House. Retrieved November 11, 2022, from <https://sunrisehouse.com/addiction-demographics/>

L. JEANNE FRYER (2006) Silenced Voices: Stories of Incarcerated Women, *Women's Studies*, 35:6,545-565, DOI: 10.1080/00497870600809756

Mannerfelt C, Håkansson A. Substance Use, Criminal Recidivism, and Mortality in Criminal Justice Clients: A Comparison between Men and Women. *J Addict*. 2018 Mar 11;2018:1689637. doi: 10.1155/2018/1689637. PMID: 29713559; PMCID: PMC5866866.

Mary Anne Franks, Real Men Advance, Real Women Retreat: Stand Your Ground, Battered Women's Syndrome, and Violence as Male Privilege, 68 *U. Miami L. Rev.* 1099 (2014) Available at: <https://repository.law.miami.edu/umlr/vol68/iss4/7>

Osazuwa, Eva, "Canadian Women in Prison: A Racial and Gendered Discursive Analysis" (2015). *Social Justice and Community Engagement*. 13. https://scholars.wlu.ca/brantford_sjce/13

Sawyer, W. (2018, January 9). The gender divide: Tracking women's state prison growth. *The Gender Divide: Tracking women's state prison growth | Prison Policy Initiative*. Retrieved February 15, 2022, from https://www.prisonpolicy.org/reports/women_overtime.html

Sparling, Zane. "No Sense of Justice!: Hundreds Cycling through Oregon Courts without Public Defenders." *Oregonlive*, 27 Sept. 2022, <https://www.oregonlive.com/crime/2022/09/no-sense-of-justice-1300-criminal-cases-in-limbo-as-oregons-public-defender-shortage-mounts.html>.

Urell, Aaryn. "Over-Incarceration of Mothers Takes Serious Toll on Children." *Equal Justice Initiative*, 3 June 2022, <https://eji.org/news/over-incarceration-of-mothers-takes-serious-toll-on-children/>.

U.S. incarceration rates by race and sex. *National Institute of Justice*. (2012). Retrieved November 1, 2022, from <https://nij.ojp.gov/media/image/19511>

"U.S. Poverty Statistics." *Federal Safety Net*, 22 Oct. 2022, <https://federalsafetynet.com/poverty-statistics/>.

Wagner, Wendy Sawyer, and Peter. "Mass Incarceration: The Whole Pie 2022." *Prison Policy Initiative*, 14 Mar. 2022, <https://www.prisonpolicy.org/reports/pie2022.html>.

Williams, J. M., Spencer, Z., & Wilson, S. K. (2021). I am Not Your Felon: Decoding the Trauma, Resilience, and Recovering Mothering of Formerly Incarcerated Black Women. *Crime & Delinquency*, 67(8), 1103–1136. <https://doi.org/10.1177/0011128720974316>

Willingham, B. C. (2011). Black Women's Prison Narratives and the Intersection of Race, Gender, and Sexuality in US Prisons. *Critical Survey*, 23(3), 55–66. <http://www.jstor.org/stable/41556431>