



**Efficacy and Impact:
The Criminal Justice Response to Marijuana Policy
in the United States**

Background

- The United States is relying heavily on a criminal justice response to drug use and drug offenders, and the number of marijuana arrests has increased. In May, the Sentencing Project reported that marijuana arrests accounted for 82 percent of the new drug abuse violations from 1990 to 2002. In June, Harvard economist Jeffrey A. Miron reported that law enforcement, judicial and corrections responses to marijuana represented \$5.1 billion in spending.
- The latest figures from the Justice Department show that *nearly half* of the 1.5 million drug arrests were for marijuana. However, leading national indicators of marijuana use rates show little relationship between increased arrests of drug users and drug use.
- While the number of marijuana prisoners (about 30,000) may appear relatively small—a perspective that is only possible in a country with 2 million prisoners and the highest incarceration rate in the world—the *impact* of a criminal justice approach to marijuana goes well beyond the number of people incarcerated at any given time. In *Efficacy and Impact: The Criminal Justice Response to Marijuana Policy in the United States*, the Justice Policy Institute measures the effectiveness and the consequences of our national drug control policies, highlighting what can be learned from analyzing the leading national indicators of drug use, arrests, the costs and collateral consequences of the current policy.

Findings

1) The United States is spending nearly 300 times what it did 35 years ago on drug control. Drug control spending rose from \$65 million in 1969 to \$19 billion in 2003.

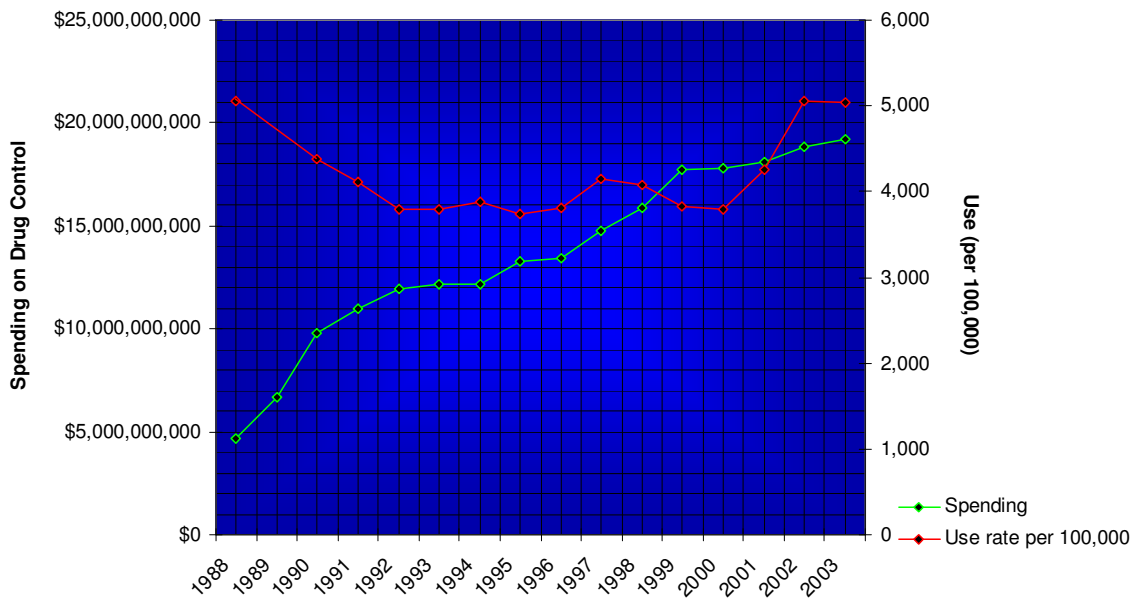
- Drug control spending increased from \$65 million in 1969 to a federal drug control 2003 fiscal budget request of \$19.18 billion. Since 1988, the United States has cumulatively spent an estimated *\$217 billion* on drug control.

2) While drug control spending has increased, marijuana use remains relatively unchanged.

- The overall trend reflected in Figure 1 shows that while the national drug control budget grew steadily—increasing 307 percent between 1988 to 2003—marijuana use saw little change.

National Drug Control Budget and Marijuana Use Rates, 1988 - 2003

Spending on national drug control increases while marijuana use shows very little change over the 15-year period.



Sources: Years 1988-1990: The National Drug Control Strategy 1996 Table 5-1: Federal Drug Control Budget." 1 Feb 1996. Office of National Drug Control Policy. Retrieved 21 Jun. 2005; 1991-2000: The President's National Drug Control Strategy Table 5: National Drug Control Budget by Function." 1 Feb 2000. Office of National Drug Control Policy. Retrieved 21 Jun. 2005, Year 2000, Estimated; 2003-2001: The President's National Drug Control Strategy Table 2: Federal Drug Control Spending by Function." 1 Feb 2002. Office of National Drug Control Policy. Retrieved 21 Jun. 2005; National Survey on Drug Use and Health (1989-2004).

3) Increasing or decreasing arrest rates has had little impact on marijuana use.

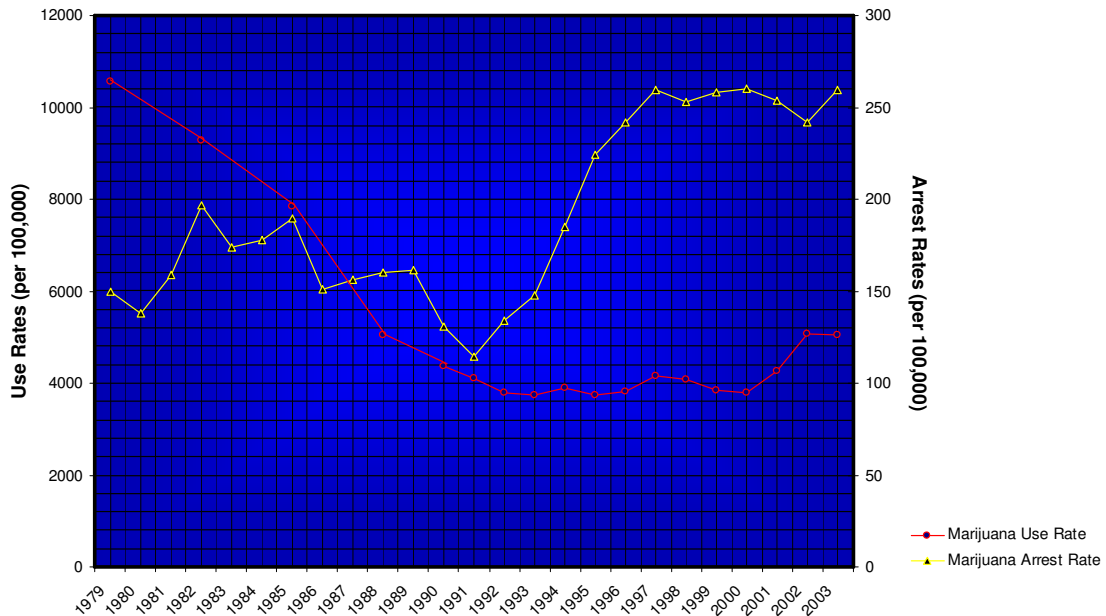
- The efficacy of the “deterrent effect” is only present when arrests are increasing and use is declining. Other researchers have shown that the “frequent use of marijuana arrests provides little of the deterrent effect necessary to put pressure on market exchange.” The *National Research Council* showed in a 2001 report that there is little research to support the current drug enforcement policy, and “*little apparent relationship between severity of sanctions prescribed for drug use*

and prevalence or frequency of use, and that perceived legal risk explains very little in the variance of individual drug use.”

- *The decline in arrests during the 1980s were marked by a decline in use, while the sharp increase in arrests in 1990s were, at best, associated with an increase in use. Starting in 1979, use rates began a precipitous decline—falling 61 percent by 1991, while arrest rates declined by only 24 percent in the same time period. When arrests rose sharply in the 1990s, use for the most part increased or remained the same. From 1991 to 2003, the number of arrests increased by 127 percent, while use rates remained relatively level, climbing only 22 percent. The increase in arrests explained by “selective enforcement decisions,” or a deliberate change in policy to focus law enforcement resources on marijuana offenses.*
- *Another leading indicator of marijuana use—the Monitoring the Future Survey—showed that the rise in marijuana arrests corresponded with a 13-year trend towards increased youth marijuana use.*

National Marijuana Arrests Rates vs. Marijuana Use Rates 1979-2003

*When marijuana arrests were generally level, use fell.
When arrests rose, use remained fairly stable, rising in this decade.*



*Sources: FBI: Uniform Crime Report and * National Household Survey on Drug Abuse and Health (NHSDA), Estimated Numbers of Past Month Users of Illicit Drugs Aged 12 and Older (1995, 1996, 1997-Table 5A; 1998-Table 2.1, 1999, 2000-Table 1.1A, 2001, Table H.1); National Survey on Drug Use and Health (NSDUH) Estimated Numbers of Past Month Users of Illicit Drugs Aged 12 and Older (Table H.1-2002, Table G.1-2003). Note, NHSDA current use estimates were not reported for 1980, 1981, 1983, 1984, 1986, 1987, and 1989.*

- While marijuana arrests were increasing in the 1990s, arrests for other drugs such as heroin and cocaine fell during the same time period. In 1992, heroin and

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cocaine arrests numbered 565,200, while there were 342,300 arrests for marijuana. The 755,200 marijuana arrests in 2003 exceeded the combined arrests for heroin and cocaine, which numbered 508,500 that same year.

4) In 7 out of 10 states over half of the drug arrests were for marijuana offenses.

- States have recently been focusing their resources on marijuana control. The most recent available data reveals in 7 out of 10 states marijuana arrests are over half of the drug arrests and in nearly 3 out of 10 states marijuana arrests are over 60 percent of total drug arrests.
- At the top of the list: North Carolina and South Dakota both had a proportion of 74 percent, while California and Maryland had the lowest proportions, 22 percent and 37 percent, respectively. *Marijuana arrests in all states combined comprise 38 percent of total state drug arrests.*

5) There are a significant number of people incarcerated in the United States for marijuana possession and sales.

- The Sentencing Project estimates that there are 27,900 people in prison for a marijuana offense, and also estimates there to be 4,600 people in jail for this kind of offense. Another methodology—applying a snapshot of drug prisoner proportions to the most recent state and federal prison population counts—yields a 2004 estimate of roughly 35,000 people in prison for a marijuana offense.
- The United States imprisons more people for marijuana than the individual prison populations of 8 out of 10 EU countries—there are more people in prison in the United States whose most serious offense was a marijuana offense than are in prison for *all* offenses in the Netherlands, the Czech Republic, Hungary and Portugal.
- The number of people in prison in the United States for a marijuana offense is greater than the individual prison populations (for *all* offenses) of 32 states.

6) The “collateral consequences” faced by those imprisoned or convicted of marijuana offenses are far-reaching.

- There are currently 13 million people with former felony convictions in the United States. For most (including some people convicted of misdemeanors), there are “collateral consequences” that await each person upon release. Based on the laws of their state, these people could be denied public assistance, be barred from certain jobs, be hobbled from effectively finding work by restrictions on their driving abilities, and be denied the right to vote.
- The Sentencing Project has showed that, in 2000, there were 41,000 people convicted of a felony offense involving marijuana. Some of those convicted were sentenced to probation, or some form of supervision outside of prison or jail. Even so, those convicted of a felony offense face significant “collateral consequences” for marijuana-related felonies. (A list of the collateral

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consequences for the states with largest known marijuana prison populations—California, Texas, Alabama and Florida—are reported).

Key Collateral Consequences in States

- Denial of Public Assistance and Food Stamps
 - Employer Access to Criminal Records
 - Voting Disenfranchisement
 - Drivers' Licenses Suspension
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- In a study on youth aged 16 to 24 jailed prior to 1980, Richard Freeman of the London School of Economics and the National Bureau of Economic Research found that “*jail reduced work time over the next decade by 25-30 percent when compared with arrested youth who were not incarcerated.*” There is also a racially disparate impact to collateral consequences. A 2004 Princeton University study showed that African American men with prison records receive less job offers for entry-level positions than white men with identical records.

About Data and Methodology

This report uses leading national indicators of drug use (the *National Household Survey on Drug Abuse/National Survey on Drug Use and Health*, and the *Monitoring the Future Survey*) and drug violations (arrest data from the *Federal Bureau of Investigations Uniform Crime Report*, calculated in most places a rate per 100,000) to show changes in arrests versus use between 1979 and 2003. The report analyzes fiscal and corrections data from a variety of different sources, including the *Sentencing Project*, the *Office of National Drug Control Policy*, the *Rand Corporation*, the *Hoover Institution*, the *International Center in Prison Studies*, *Bureau of Justice Statistics*, and the *Legal Action Center*.

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dedicated to ending society's reliance on incarceration and promoting effective and just solutions to social problems.