



The Futility and High Cost of Criminalizing Marijuana

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Across the United States, tens of millions of residents have been arrested for violating marijuana laws. Arrests for offenses related to marijuana have increased dramatically since 1992. In 2010 alone, there were 853,838 arrests. Remarkably, more than half of all drug-related arrests that year involved marijuana alone. And almost nine of every ten people apprehended for marijuana offenses are charged with mere possession, not sales or distribution.

America's efforts to reduce marijuana use over the past four decades have largely depended on arrest, imprisonment, incarceration – and, recently, the seizure of private property through asset forfeiture laws. The aim of such heavy legal firepower is to deter potential consumers, reduce marijuana use, limit availability, and increase the price of the drug. But existing research suggests that these goals have not been achieved. Instead, prices have declined and increasingly potent marijuana has become more readily available to growing numbers of users – even as arrests have climbed. Developments are not the same in all states and localities, but overall there is no clear indication that intensified enforcement decreases marijuana use.

Marijuana Prohibition is Costly for Society, Families and Individuals

Enforcement efforts against marijuana use may not work well, but they are still costly to the public as well as to the individuals and families involved.

- The savings that would follow from decriminalizing marijuana use are hard to calculate, but it is clear that the enforcement of marijuana laws consumes significant fiscal and organizational resources that could be allocated toward other public safety goals, or toward the provision of much-needed social services.
- The fiscal costs of marijuana enforcement are only partially offset by legal seizures of assets from convicted dealers. But the very possibility of asset forfeiture creates perverse incentives for police agencies and may reduce public safety.
- The enforcement of laws against simple use of marijuana creates additional pathologies in the criminal justice system – including controversial policing tactics, the erosion of civil liberties, over-crowding in the courts, and the diversion of drug treatment dollars that could better be used to help more troubled offenders. The last problem appears when recreational marijuana smokers are required to participate in mandatory drug treatment programs.
- People arrested for marijuana use pay heavy costs – and so may their families and associates. Whether or not they are ultimately convicted, those arrested commonly incur lawyers' fees, fines and other court

charges, and many also lose income and valuable assets. For both people apprehended and their families, arrests mean emotional stress and perhaps also the loss of faith in the fairness of the criminal justice process.

- Marijuana prohibition contributes to racial inequalities in the United States, because marijuana arrests are not evenly distributed across the population. Approximately 30% of those arrested for violating marijuana laws are African Americans, who pay the highest costs along with their families and communities.

Penalties and Enforcement Vary

The legal consequences of marijuana violations can be severe. But they are also uneven to the point of capriciousness, because laws and enforcement efforts are highly variable.

A number of U.S. states have passed laws that permit the use of marijuana for medical purposes. Many municipalities have reduced the priority of enforcement. Some states have decriminalized marijuana altogether, while other jurisdictions mandate treatment for non-violent drug offenders rather than tossing them in prison.

- The consequences for people convicted for marijuana offenses are also extremely variable. In states that have decriminalized marijuana, a person found in possession of the drug faces only a civil fine. In sharp contrast, in the state of Louisiana a person convicted the third time for possession of just one ounce of marijuana may be sentenced to twenty years in prison.

Can We Decriminalize Marijuana?

Researchers have used two main strategies to assess the impact of decriminalizing marijuana. One strategy compares patterns of marijuana use in jurisdictions with very different laws or enforcement policies. Another approach tracks shifts within jurisdictions where laws or enforcement practices have clearly changed. Both kinds of studies indicate that legal prohibitions and tough enforcement have little impact on rates of marijuana consumption. People use the drug regardless of whether they may face severe legal consequences.

In November 2012, majorities of citizens in Colorado and the state of Washington voted to make it made it legal to possess and smoke pot recreationally. When the new laws are certified, people 21 years and older will legally be able to possess up to an ounce of marijuana. In Colorado, people will also be able to grow as many as six plants; and in Washington, they will be able to obtain marijuana from state-licensed providers.

But these fledgling state laws conflict with federal drug policy. Marijuana is currently prohibited by the U.S. government, classified as a "Schedule I controlled substance" with high potential for abuse and no safe or accepted medical use.

How will national authorities respond to the new legal directions charted by the voters of Colorado and Washington? The answers will become evident in coming months – and will have a big impact on the ability of all U.S. states to adopt alternative and potentially more socially constructive approaches to the use and regulation of marijuana.

Read more in Katherine Beckett and Steve Herbert, "[The Consequences and Costs of Marijuana Prohibition](#)," The ACLU of Washington, 2008.