

## Mitigation of Marijuana-Related Legal Harms to Youth in California

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### ABSTRACT

If recreational marijuana is legalized for adults in California, a rational implementation of public policy would neither criminalize youth possession, nor medically pathologize it by conflating possession with addiction. The harms of a criminal justice approach to juveniles should not exceed the harms of the drug itself. Juvenile arrests and probation have consequences: (1) arrest records, probation, and juvenile hall; (2) an incarceration subculture, "crime school," psychological and re-entry costs; (3) school "zero-tolerance" expulsions and suspensions; (4) ineligibility for federal school loans; (5) employment screening problems; (6) racial disparities in arrests; (7) fines and attorney's fees; and (8) immigration/naturalization problems. Marijuana-related arrest rates in California dropped after a 2011 law making possession under 1 oz. an infraction for all, but juvenile marijuana arrests continue to outnumber arrests for hard drugs. Recommendations for prudent implementation policy include: stable marijuana tax funding for Student Assistance Programs (SAPs) in high schools; elimination of "zero-tolerance" suspension/expulsion policies in favor of school retention and academic remediation programs; juvenile justice transparency discriminating among infractions, misdemeanors, and felonies. Criminal sanctions and durations must be proportional to the offense. Probation-based interventions should be reserved for larger possession amounts and recidivist offenders, and outcomes should be independently evaluated.

### ARTICLE HISTORY

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In November 2016, if marijuana possession is legalized for adults in California through a voters' initiative, but remains illegal for those under 21, it is unclear how juvenile offenders will be charged, adjudicated, monitored, and managed. In the early implementation design stages of a legalization initiative, it is important to consider a range of non-criminal sanctions for youth. A rational public policy solution would neither criminalize youth possession, nor medically pathologize it. Nor should marijuana possession or use be conflated with "marijuana use disorder"; the latter is a DSM-V diagnosis that requires a full clinical assessment. California needs to develop an intermediate domain of school- and community-based sanctions for under-age marijuana possession.

### Universal decriminalization vs. adult legalization

Although it is inconceivable that legalization proponents for a 2016 California initiative would consider making marijuana possession and use legal for

juveniles, it is important nonetheless to consider the two main approaches to state reforms:

- *Decriminalization for all ages*: This is generally structured as infraction tickets with fines. Technically, this 2011 California law and a \$100 fine apply to juveniles as well as adults.
- *Legalization for adults 21 years and older*: Personal possession amounts (usually under 1 oz.) are legalized. Unregulated production, sale, and distribution are not.

California, Connecticut, and Massachusetts have already moved to an infraction system that has been called *de facto legalization* for all. New York City has recently followed suit. In the November 2014 elections, Colorado, Washington, Oregon, and Washington, D.C., legalized possession of up to one ounce for adults 21 and older. Following adult legalization, it is only youth who remain criminalized; unfortunately, arrest and probation (more likely in California than incarceration) have their own consequences.

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Color versions of one or more of the figures in the article can be found online at [www.tandfonline.com/ujpd](http://www.tandfonline.com/ujpd).

## Relative harms of criminalization

In any coming Marijuana Regulation & Taxation Initiative in California, it is essential to ensure that the harms of keeping minors as the only illegal part of the marijuana-using population do not exceed the harms of the drug itself. Engagement with our criminal justice system has its own potential for long-lasting consequences:

- Criminal arrest records, juvenile justice probation, and juvenile hall.
- Incarceration subculture, “crime school,” psychological and re-entry costs.
- School “zero-tolerance” expulsions and suspensions.
- Ineligibility for federal school loans.
- Employment screening problems.
- Racial disparities in arrest and adjudication.
- Fines and attorney’s fees.
- Immigration/naturalization problems.

## The evidence-base on marijuana-related youth sanctions

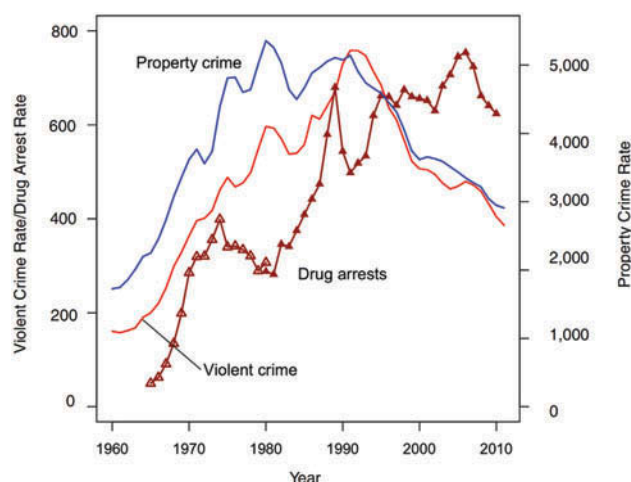
### Overview

According to a 2013 American Civil Liberties Union (ACLU) Report, between 2001 and 2010 there were over eight million marijuana arrests in the USA, 88% of which were for possession, and accounting for 46% of *all* drug arrests (ACLU 2013). The ACLU found that Blacks were 3.73 times more likely to be arrested for possession than Whites, even though both use marijuana at similar rates. These arrests or convictions can and do have negative impacts on school completion, federal financial aid, public housing, employment, custody determinations, and immigration status.

The National Research Council of the prestigious American Academy of Sciences has recently analyzed American incarceration since the 1970s, and they have found that, in the context of declining property and violent crimes, drug arrests have increased dramatically (National Research Council 2014, 46). Figure 1 shows that although property and violent crimes have declined in the past 25 years, drug arrests have remained high.

However, neither their review nor that of others were able to find a causal (protective) link between increased drug arrests and decreased violent and property crimes:

The U.S. penal population of 2.2 million adults is the largest in the world. In 2012, close to 25 percent of the world’s prisoners were held in American prisons, although the United States accounts for about 5 percent of the world’s population. The U.S. rate of incarceration, with nearly 1 of every 100 adults in prison or jail, is 5 to 10 times higher than rates in



**Figure 1.** Violent and Property Crime Rates per 100,000 Population, 1960 to 2011, and the Drug Arrest Rate per 100,000, 1980 to 2010.

Data Source: Uniform Crime Reports. Drug crime rate, 1965–1980; Federal Bureau of Investigation (1993); Maguire (n.d.), Table 3.1062.2011, property and violent crime rates); Uniform Crime Reports (drug arrest rates).

Figure Source: National Research Council (2014, 46).

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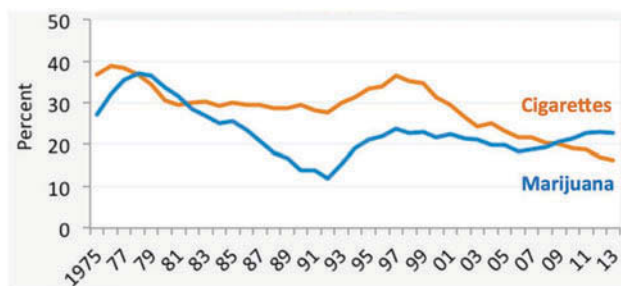
Western Europe and other democracies. (National Research Council 2014, 2)

The *Global Commission on Drug Policy* has called for an end to incarceration-based strategies in favor of decriminalization and regulation (Global Commission on Drug Policy 2011, 2014). And, many advocacy organizations have analyzed international data and similarly endorsed major revisions of *War on Drugs* policies, international drug conventions, and elimination of criminal sanctions for personal possession amounts of diverse drugs (European Legal Database on Drugs (ELDD) 2003; Hughes and Stevens 2010; Zuffa 2011; Hughes and Stevens 2012; Rolles and Eastwood 2012; Rosmarin and Eastwood 2012; Drug Policy Alliance (DPA) 2015; Rolles and Murkin 2013; The Partnership at DrugFree.org 2013; Addictions and Lifestyles in Contemporary Europe-Reframing Addictions Policy (ALICE RAP) 2014; Bewley-Taylor, Blickman, and Jelsma 2014; Canadian Public Health Association 2014; Coombes 2014; International Drug Policy Consortium (IDPC) 2014; Levy 2014). In late 2015, a document drawn up by the chief of the HIV/AIDs section of the United Nations Office on Drugs and Crime (UNODC) in Vienna and prepared for an international harm reduction conference in Kuala Lumpur advocated decriminalization of drug possession for personal use. Under U.S. pressure, it was disavowed as a UNODC policy statement (Easton 2015).

### Youth trends

Although cigarette smoking rates continue to drop among high school students to the lowest rate in *Monitoring the Future Survey's* history, high school students in the U.S. clearly have ready access to marijuana. Young people generally consider marijuana safer than cigarettes; more twelfth graders now smoke marijuana than cigarettes (see the trend from 1975 to 2013 in Figure 2).

In 2013, *Monitoring the Future* (Johnston et al. 2013) found that 36.4% of high school seniors had ever used marijuana. Past month use is considered a reasonable proxy for regular or heavy use. Figure 3 shows that, in 2013, 22.7% of twelfth graders had used marijuana within the prior 30 days, compared to 16.3% who smoked cigarettes (NIDA 2013).



**Figure 2.** Percentage of U.S. Twelfth Grade Students Reporting Past-Month Use of Cigarettes and Marijuana, 1975 to 2013.

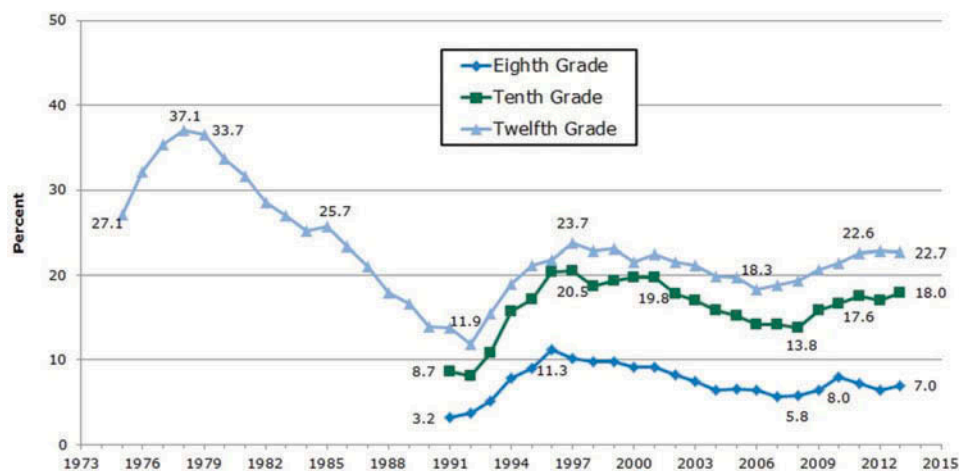
Data/Figure Source: National Institute on Drug Abuse (2013).

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Twenty-three states and the District of Columbia have legalized medical marijuana. This increased availability of cannabis products has raised concerns about increased access and use among teenagers (Hopfer 2014). However, an analysis of data on 11,703,100 students from the *Youth Risk Behavioral Survey* (1991–2011) found no significant differences between states with and without legalization of medical marijuana (Choo et al. 2014). Across years and states, past-month marijuana use was 20.9%. Similarly, a large European study using a random probability sample of 15,191 young people (ages 15–24) in 15 countries found that the elimination of punishments for personal use possession was not associated with higher drug use (Vuolo 2013).

### California juvenile arrest data

On 11 January 2011, California governor Arnold Schwarzenegger signed into law Senate Bill 1149, reducing from a misdemeanor to a civil infraction the possession of less than one ounce of marijuana. Possession of marijuana on a school campus or in a moving vehicle remains a criminal offense. This change eliminated the need for a trial and an attorney, with attendant savings for both the individual and the state. Marijuana arrest rates then plummeted in 2011 (Males 2012; Matthews and McCray 2012; Harris 2014). For the first time, arrests for possession became significantly less than for sales and distribution. However, the California attorney general's arrest data do not provide information about criteria for charging possession as a felony rather than as a misdemeanor or infraction.

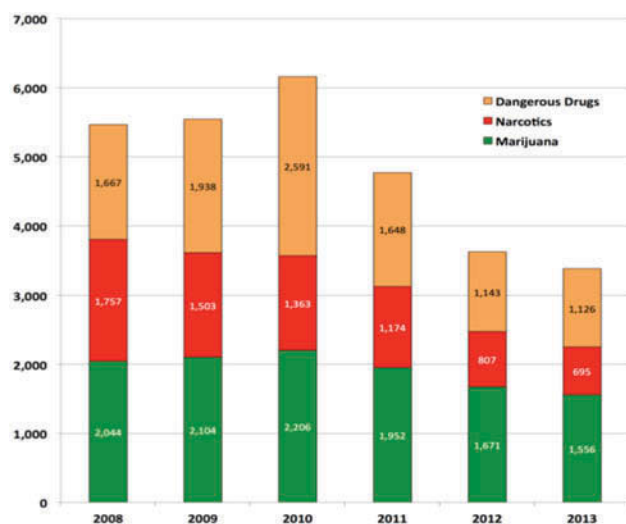


**Figure 3.** Percentage of Students in Grades 8, 10, and 12 Who Report They Used Marijuana in the Past Thirty Days: Selected Years 1976–2013.

Data Source: Johnston et al. (2014).

Figure Source: Child Trends Databank (2014).

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**Figure 4.** Felony Arrests CA—Juveniles (Ages 10–17)—2008–2013.

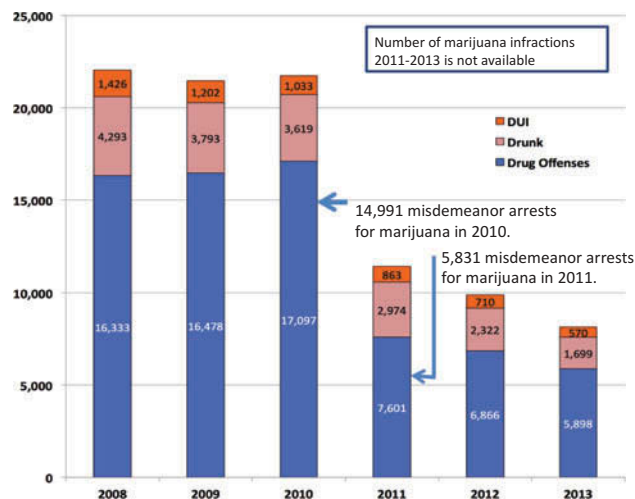
Data Source: Harris (2014).

Figure 4 shows that, in 2013, the numbers of juvenile marijuana felony arrests were only slightly less than numbers of felony arrests for dangerous drugs and narcotics combined. This suggests a persisting lack of proportional response to the drugs with the highest dangers to self and to society.

Criteria for juvenile misdemeanor arrests related to marijuana remain opaque in the California Attorney General's 2013 annual summary (Harris 2014). Although the number of misdemeanor arrests plummeted from 14,991 in 2010 to 5,831 in 2011, it is unclear whether these later data count infractions as a kind of misdemeanor or whether this category represents some degree of up-charging of possession offenses.

California data for juvenile arrests through 2013 show that marijuana-related arrests remain low-hanging fruit for criminal justice engagement, still exceeding felony arrests for narcotics and dangerous drugs and still providing the majority of misdemeanor drug arrests.

Since the 2011 change in law, juvenile marijuana misdemeanor arrests have dropped dramatically while juvenile marijuana felony arrests have declined much more slowly. Figure 5 shows that, in 2011, three-fourths of California's declining marijuana possession arrestees (5,800/7,800) were under age 18, up from one-third in 2010. And, what are the criteria for so many continuing misdemeanor arrests in the post-2011 infraction era? Unfortunately, there are no California Department of Justice data tabulating the rates of marijuana infraction citations; the enforcement distinctions between a juvenile



**Figure 5.** Misdemeanor Arrests CA—Juveniles (Ages 10–16)—2008–2013.

Data Source: Harris (2014).

misdemeanor and an infraction remain unclear and are likely to vary in practice according to locale.

Caulkins and Kilmer have reviewed diverse analyses of criminal justice costs of marijuana prohibition in California; they calculated that 43.6–48.1% of marijuana arrests in 2010 were for minors (Caulkins and Kilmer 2014, 17). In 2009 (before the 2011 law change), the prosecution dropped only 4% of all felony marijuana arrests and 2% of all misdemeanor arrests; however, 94% of cases were settled through plea bargains. They estimated per-person felony adjudication costs as \$2,026 without trial, and \$3,575 with trial. Their estimate for misdemeanors was \$418, including trial:

Our approach suggests that the *direct* criminal justice systems cost of prohibiting marijuana for adults in California in 2010 was approximately \$150 million. More than 45 percent of the costs (\$70 million) are attributable to incarceration.... After incarceration, prosecution (\$40 million) and probation and parole combined (\$30 million) are the next largest cost items. (Caulkins and Kilmer 2014, 25)

## Marijuana decriminalization and youth risks

In September 2014, Males and Buchen at the Center on Juvenile and Criminal Justice (CJJC) compared effects of two kinds of marijuana reforms in five states (CA, CT, MA, CO, WA) (Males 2014; Males and Buchen 2014). Unexpectedly, they did not find increased harms to California youth in the two years following the down-charging of marijuana possession to an infraction. In fact, improvements in California exceeded those in other states.

They found that all five states reported substantial declines in marijuana possession arrests, and four states reported drops in marijuana felony arrests. Universal decriminalization more effectively reduced arrests and associated harms (especially for young people), and California teenagers showed improvements in all measured risk areas (crime, overdose, DUI, and school dropout) after legal reform.

### School expulsion/suspension

In 2001, the American Bar Association recommended ending so-called zero-tolerance policies of suspension and expulsion: “The American Bar Association opposes [in] principle, ‘zero tolerance’ policies that mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the student’s history” (ABA 2009, 17).

In 2003, the American Academy of Pediatrics estimated that 79–94% of schools maintain so-called zero-tolerance policies that mandate predetermined consequences for various behavioral offenses, including drug possession (American Academy of Pediatrics Committee on School Health 2003). Unintended consequences may include academic deterioration, school alienation, delinquency, and substance abuse. The Academy of Pediatrics made nine recommendations, including the need for a full history and assessment, limited expulsions only for severe manifest dangers, access to community-based health care and social services, and professional referrals.

In 2014, the Federal Department of Education also spoke out against the overuse of suspension/expulsion policies:

The widespread overuse of suspensions and expulsions has tremendous costs. Students who are suspended or expelled from school may be unsupervised during daytime hours and cannot benefit from great teaching, positive peer interactions, and adult mentorship offered in class and in school. Suspending students also often fails to help them develop the skills and strategies they need to improve their behavior and avoid future problems. Suspended students are less likely to graduate on time and more likely to be suspended again, repeat a grade, drop out of school, and become involved in the juvenile justice system.

When carried out in connection with zero-tolerance policies, such practices can erode trust between students and school staff, needed to engage students in a well-rounded and rigorous curriculum. In fact, research indicates an association between higher suspension rates and lower school wide academic

achievement and standardized test scores. Schools and taxpayers also bear the steep direct and indirect costs from the associated grade retention and elevated school dropout rates. (US Department of Education 2014, ii)

Although zero-tolerance policies were originally products of the Gun-Free Schools Act of 1994, such policies were rapidly and popularly expanded to a wide range of behavioral violations, including drug use or possession. The *Zero-Tolerance Task Force Report* (2008) of the American Psychological Association found that schools with higher rates of suspension tend to have lower academic quality, pay less attention to school climate, and receive lower ratings on school governance measures:

An extensive [APA] review of the literature found that, despite a 20-year history of implementation, there are surprisingly few data that could directly test the assumptions of a zero tolerance approach to school discipline, and the data that are available tend to contradict those assumptions. Moreover, zero tolerance policies may negatively affect the relationship of education with juvenile justice and appear to conflict to some degree with current best knowledge concerning adolescent development. To address the needs of schools for discipline that can maintain school safety while maximizing student opportunity to learn, the report offers recommendations for both reforming zero tolerance where its implementation is necessary and for alternative practice to replace zero tolerance where a more appropriate approach is indicated. (American Psychological Association Zero Tolerance Task Force 2008, 852)

Students who experience out-of-school suspensions or expulsions are as much as 10 times more likely to drop out of high school. In 2013, the Academy of Pediatrics recommended more comprehensive alternatives, including School-Wide Positive Behavioral Support (SWBS) programs. Such programs have three components: (1) prevention; (2) multi-tiered support; and (3) data-based decision making (American Academy of Pediatrics 2013).

Zero-tolerance policies and practical change practices, such as Chicago’s Culture of Calm Initiative, are well reviewed in a recent research report of the *University of Chicago Consortium on Chicago School Research* (Stevens et al. 2015). A *New York Times* editorial on their research and on alternatives to zero-tolerance practices, commented that:

The schools are being pushed in this direction by studies showing: that suspensions do nothing to improve the school climate; that children who are thrown out are at greater risk of low achievement and becoming entangled with the juvenile justice system; and that minority children are disproportionately

singled out for the harshest, most damaging disciplinary measures. (New York Times Editorial Board 2015)

Since 2012, the California Department of Education has worked successfully to decrease suspensions and expulsions. The top three reasons for suspension in 2012–13 were: (1) disruption and “willful defiance”; (2) student fights and abusive language; and (3) vulgar acts. In September 2014, California enacted AB 420 to eliminate student suspensions for “willful defiance” and minor misbehaviors. School suspensions and expulsions, disproportionately affecting minorities, have dramatically declined—a 20% decline in expulsions and a 15% decrease in suspensions in the 2014 school year (California Department of Education 2015). (However, we do not have a breakdown of disciplinary actions directly related to marijuana or drug use.)

Research on the effect of school policies on marijuana and drug use is scarce and offers mixed results. A March 2015 study looked at the effects of school drug policies on student marijuana use in Washington state and Victoria, Australia (Evans-Whipp et al. 2015). The “likelihood of student marijuana use was higher in schools in which administrators reported using out-of-school suspension and students reported low policy enforcement. Student marijuana use was less likely where students reported receiving abstinence messages at school and students violating school policy were counseled about the dangers of marijuana use” (Evans-Whipp et al. 2015).

### Federal financial aid

The Higher Education Act (HEA) was signed by President Lyndon Johnson in 1965. It was designed to make college more realistic for middle- and lower-income students. The Drug Offender Exclusionary Provision of the Higher Education Act, added in 1998, blocks eligibility for students revealing drug convictions (including misdemeanors) on the Free Application for Federal Student Aid (FAFSA). The restrictions apply only to students attending school on federal financial aid when the charge was incurred. The provision provides for resumption of federal aid after satisfactory completion of a qualifying drug rehabilitation program. Exceptions to the exclusion time frames include having the convictions reversed, expunged (most likely for juveniles and successful completers of diversion programs), or charges reduced to less than three possession convictions or two sales convictions (Webb 2014).

**Table 1.** Possession of a Controlled Substance and Loss of Eligibility for Federal School Loans.

Possession of a Controlled Substance	Ineligibility Period:
1 <sup>st</sup> Offense	1 year
2 <sup>nd</sup> Offense	2 years
3 <sup>rd</sup> Offense	Indefinite
Sale of a Controlled Substance	Ineligibility Period:
1 <sup>st</sup> Offense	2 years
2 <sup>nd</sup> Offense	Indefinite

### Employment

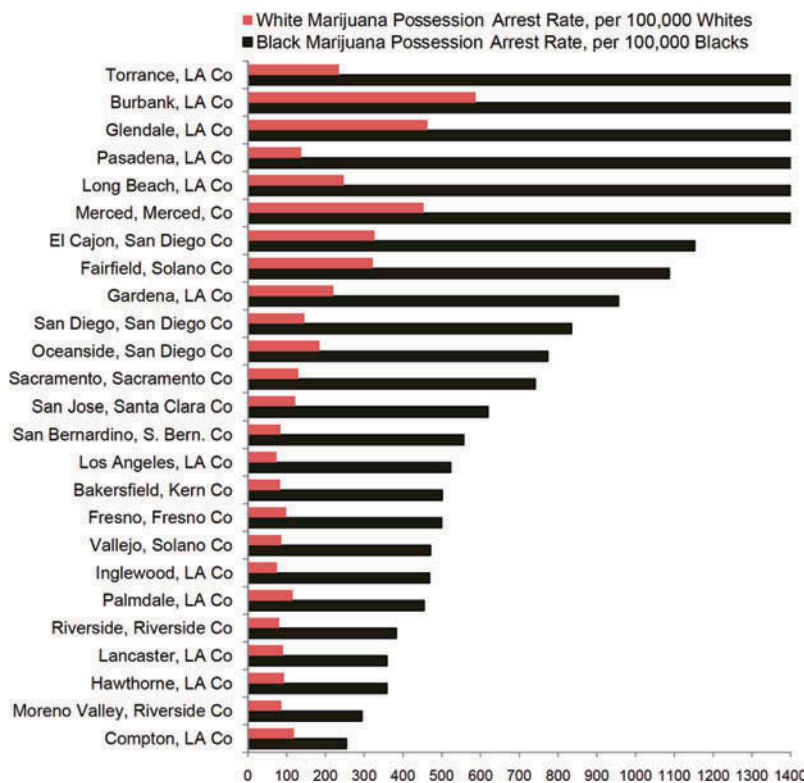
Many employers ask questions about legal history (including arrests and misdemeanors) and request signed release of information forms. In many cases, a prior arrest is sufficient to disqualify an applicant; for existing employees, lying on an initial application form is potential grounds for later job termination. In the era of online database searches, arrest data is easily found.

### Racial disparities in arrests

The NAACP and the Drug Policy Alliance have summarized racial disparities in marijuana arrests in California between 2006 and 2008 (see Figure 6; Levine, Gettman, and Siegel 2010). Marijuana arrests were disproportionately high for Blacks and Hispanics, males, and young people compared to rates of use. Table 1 graphically shows that arrest rates in 25 major metropolitan areas were from four to 11 times the rates for Whites.

### Legal expenses

Young people, particularly disadvantaged youth, do not reliably have adequate financial resources to effectively dispute or mitigate legal charges in court. The shift to infractions in California law introduces a new disparity that exists alongside the racial disparity; namely, a class disparity. The \$100 fine is not trivial for poor kids, many, but not all, of whom will be minorities. If an offender fails to pay the fine, a bench warrant is issued; now the offender is guilty of a misdemeanor (not paying the fine). The misdemeanor leads the offender back into the criminal justice system, with all the attendant difficulties, including the fact that the offender now has to hire a lawyer or accept a marginal defense from the public defender (who will usually be concerned with the more serious offenses of other clients).



**Figure 6.** White and Black Rates of Marijuana Possession Arrests in 25 Major California Cities, 2006–2008.

*Data Sources:* California Department of Justice, Criminal Justice Statistics Center, and American Community Survey, US Census Bureau, 2006–08.

*Figure Source:* Levine, Gettman, and Siegel (2010, 10).

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## Immigration

A marijuana-related conviction can affect immigration status, because state-by-state legalization initiatives nonetheless contravene federal laws. The nature of the drug charge will likely determine whether it will serve as a bar to residency or as a reason for deportation.

## Discussion

### *Criminal sanctions*

There is little evidence to support the intuitive belief that incarceration reduces crime or recidivism (Smith, Gendreau, and Goggin 2002; Gendreau, Goggin, and Cullen 2003). Five states with the largest decreases in imprisonment have shown an average decrease in crime of 45% (National Research Council 2014; Pew Charitable Trusts 2014). In addition, the criminal justice system has proven to be a blunt and ineffective instrument for reducing youth drug use. There is also a substantial literature detailing the hegemony of punishment over rehabilitation in America's prisons and increasing evidence that adaptation to

incarceration has substantial psychological and social costs (Haney 2001).

If marijuana use and possession are legalized for California adults in 2016, it is minors for whom possession and use will remain illegal; the penalties should not exceed the harms of the drug itself. Sanctions should support families, school retention, and academic remediation for the minority of youth who develop problematic use, educational problems, or frank marijuana dependence. In any future implementation of a marijuana legalization initiative, it is important to clearly articulate both the nature of marijuana legal charges and the attendant penalties for youthful offenders. In particular, there must be clear criteria established for discriminating among infractions, misdemeanors, and felonies. The level of criminal sanction and its duration must be appropriately linked to the level of the offense. The juvenile justice practice of up-charging small-amount possession to "intent to distribute" in order to qualify youngsters for probation-based treatment needs to be eliminated, since possession of less than 1 oz. has been an infraction for all ages in California since 2011. Probation-based interventions should be reserved for larger

possession amounts and recidivist offenders; the State Attorney General needs to regularly evaluate the short- and long-term outcomes of probation-based interventions.

Finally, future initiative prose must define a pathway for effective arrest record expungement for individuals under 21 years of age. The experience with Proposition 36 (SACPA 2000, Substance Abuse and Crime Prevention Act) has demonstrated that, although successful addiction treatment completers could have their records expunged, online computer searches could, in many cases, still find a historical record of arrests (Evans et al. 2000).

### **Non-criminal sanctions**

We need to seek a middle ground of community- and school-based sanctions that neither criminalize nor conflate youthful marijuana use or possession with addiction. The Office of the California Attorney General needs to develop a systematic tracking system for marijuana-related infractions (but individual offenders should be anonymized in state and local databases). Minors should be charged with infractions rather than misdemeanors whenever possible. These are best structured as fix-it tickets that call for eight hours, or more, of education (similar to traffic school) and/or enrollment in a Student Assistance Program (SAP). Because minors who need intervention or treatment typically resist care, an infraction ticket for a minor should minimally require parental notification. Infraction fines (~\$100) should be waived for minors after completion of sanctioned education via a student assistance program or a community-based drug education program.

### **School policies**

We need to strongly discourage school zero-tolerance policies that rely on suspension or expulsion in favor of comprehensive evaluations and school-based programs that emphasize school retention and improved academic performance. We need to discourage on-campus arrests (except for actual drug dealing/distribution) and discourage referrals to juvenile courts and probation (Morgan et al. 2014) (possession of marijuana on a school campus remains a criminal offense). As recommended by the American Academy of Pediatrics and NIDA, schools should not institute random drug screening (that must be reserved for students enrolled in SAPs and treatment programs with privacy protections) (Levy et al. 2014). Parental

notification of in-school offenses and family-based interventions are needed.

### **Student assistance programs**

Reserved marijuana tax funding from a voter's legalization initiative in 2016 should be used to develop stable funding for Student Assistance Programs (SAPs) for California high schools; there are many working models to consider both in-state and elsewhere in the U.S. SAPs are described in more detail in separate Blue Ribbon Commission briefings (<http://www.csam-asam.org/evidence-based-marijuana-information>). The key goals should be school retention, cognitive/learning assessments, and academic remediation, as well as referrals for professional care and community-based clinical treatment when indicated. All early intervention programs also need to be funded to carry out University of California research on long-term outcomes.

### **Acknowledgement**

An earlier version of this paper was submitted to California Lt. Gov. Gavin Newsom's Blue Ribbon Commission on Marijuana Policy (<https://www.safeandsmartpolicy.org>).

### **References**

- Addictions and Lifestyles in Contemporary Europe—Reframing Addictions Policy (ALICE RAP). 2014. Cannabis: From prohibition to regulation, policy brief 5. [http://www.alicerap.eu/resources/documents/cat\\_view/1-alice-rap-project-documents/19-policy-paper-series.html](http://www.alicerap.eu/resources/documents/cat_view/1-alice-rap-project-documents/19-policy-paper-series.html) (accessed December 21, 2015).
- American Academy of Pediatrics. 2013. Out-of-school suspension and expulsion (policy statement, Council on School Health). *Pediatrics* 131 (3):e1000–e1007. doi:10.1542/peds.2012-3932.
- American Academy of Pediatrics Committee on School Health. 2003. Out-of-school suspension and expulsion (policy statement). *Pediatrics* 112 (5):1206–09. doi:10.1542/peds.112.5.1206.
- American Bar Association. 2009. Commission on youth at risk, commission on homelessness and poverty. Report to the House of Delegates. <http://cleweb.org/sites/cleweb.org/files/assets/ABA.118B.RighttoRemaininSchool.pdf>.
- American Civil Liberties Union (ACLU). 2013. The war on marijuana in black and white: Billions of dollars wasted on racially biased arrests. <http://www.aclu.org/files/assets/061413-mj-report-rfs-rel4.pdf>. (accessed December 21, 2015)
- American Psychological Association Zero Tolerance Task Force. 2008. Are zero tolerance policies effective in the schools?: An evidentiary review and recommendations. *The American Psychologist* 63 (9):852–62. doi:10.1037/0003-066X.63.9.852.

- Bewley-Taylor, D., T. Blickman, and M. Jelsma. 2014. *The rise and decline of cannabis prohibition: The history of cannabis and the UN Drug Control System and options for reform*. Transnational Institute (TNI). [http://idpc.net/publications/2014/03/the-rise-and-decline-of-cannabis-prohibition?utm\\_source=IDPC+Monthly+Alert&utm\\_campaign=f1e4b384a2-IDPC+April+2014+Alert&utm\\_medium=email&utm\\_term=0\\_d40f46a7df-f1e4b384a2-49863149](http://idpc.net/publications/2014/03/the-rise-and-decline-of-cannabis-prohibition?utm_source=IDPC+Monthly+Alert&utm_campaign=f1e4b384a2-IDPC+April+2014+Alert&utm_medium=email&utm_term=0_d40f46a7df-f1e4b384a2-49863149).
- California Department of Education. 2015. State schools chief Tom Torlakson reports significant drops in suspensions and expulsions for second year in a row. <http://www.cde.ca.gov/nr/ne/yr15/yr15rel5.asp> (accessed December 21, 2015).
- Canadian Public Health Association. 2014. A new approach to managing illegal psychoactive substances in Canada. [http://www.cpha.ca/uploads/policy/ips\\_2014-05-15\\_e.pdf](http://www.cpha.ca/uploads/policy/ips_2014-05-15_e.pdf) (accessed December 21, 2015).
- Caulkins, J. P., and B. Kilmer. 2014. Criminal justice costs of prohibiting marijuana in California. In *Something's in the Air: Race, Crime, and the Legalization of Marijuana*, eds. K. Tate, J. L. Taylor, and M. Q. Sawyer. New York: Routledge.
- Child Trends Databank. 2014. Marijuana Use: Indicators on Children and Youth. <http://www.childtrends.org/?indicators=marijuana-use> (accessed December 21, 2015).
- Choo, E. K., M. Benz, N. Zaller, O. Warren, K. L. Rising, and K. J. McConnell. 2014. The impact of state medical marijuana legislation on adolescent marijuana use. *The Journal of Adolescent Health* 55 (2):160–66. doi:10.1016/j.jadohealth.2014.02.018.
- Coombes, R. 2014. Cannabis regulation: High time for change? *British Medical Journal* 348:g3382. doi:10.1136/bmj.g3382.
- Drug Policy Alliance (DPA). 2015 February 5. Approaches to decriminalizing drug use and possession. <http://www.drugpolicy.org/resource/approaches-decriminalizing-drug-use-and-possession> (accessed December 21, 2015).
- Easton, M. 2015 October 19. UN attempt to decriminalise drugs foiled. BBC News Online. <http://www.bbc.com/news/uk-34571609>.
- European Legal Database on Drugs (ELDD). 2003. The role of the quantity in the prosecution of drug offenses, ELDD comparative study. <http://www.emcdda.europa.eu/html.cfm/index5175EN.html> (accessed December 21, 2015).
- Evans, E., D. Longshore, M. Prendergast, and D. Urada. 2006. Evaluation of the Substance Abuse and Crime Prevention Act: Client characteristics, treatment completion and re-offending three years after implementation. *Journal of Psychoactive Drugs* 38 (sup 3): 357–367.
- Evans-Whipp, T. J., S. M. Plenty, R. F. Catalano, T. I. Herrenkohl, and J. W. Toumbourou. 2015. Longitudinal effects of school drug policies on student marijuana use in Washington State and Victoria, Australia. *American Journal of Public Health* 105 (5):994–1000. doi:10.2105/AJPH.2014.302421.
- Gendreau, P., C. Goggin, and F. T. Cullen. 2003. *The effects of prison sentences on recidivism*. Department of the Solicitor General Canada. <http://www.prisonpolicy.org/scans/e199912.htm>.
- Global Commission on Drug Policy. 2011. War on drugs: Report of the global commission on drug policy. [http://www.globalcommissionondrugs.org/wp-content/themes/gcdp\\_v1/pdf/Global\\_Commission\\_Report\\_English.pdf](http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf).
- Global Commission on Drug Policy. 2014. Taking control: Pathways to drug policies that work. Global Commission on Drug Policy. <http://www.drugpolicy.org/resource/taking-control-pathways-drug-policies-work> (accessed December 21, 2015).
- Haney, C. 2001. The psychological impact of incarceration: Implications for post-prison adjustment. In *From prison to home: The effect of incarceration and reentry on children, families and communities, national policy conf, US Dept of Health and Human Services (2002)*. Washington, DC: US Department of Health and Human Services. <http://aspe.hhs.gov/hsp/prison2home02/haney.pdf> (accessed December 21, 2015).
- Harris, K. D. 2014. Crime in California 2013. California Attorney General, California Department of Justice. <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd13/cd13.pdf> (accessed December 21, 2015).
- Hopfer, C. 2014. Implications of marijuana legalization for adolescent substance use. *Substance Abuse* 35 (4):331–35. doi:10.1080/08897077.2014.943386.
- Hughes, C. E., and A. Stevens. 2010. What can we learn from the Portuguese decriminalization of illicit drugs? *British Journal of Criminology* 50 (6):999–1022. doi:10.1093/bjc/azq038.
- Hughes, C. E., and A. Stevens. 2012. A resounding success or a disastrous failure: Re-examining the interpretation of evidence on the Portuguese decriminalisation of illicit drugs. *Drug and Alcohol Review* 31 (1):101–13. doi:10.1111/dar.2012.31.issue-1.
- International Drug Policy Consortium (IDPC). 2014. Modernizing drug law enforcement. <http://idpc.net/policy-advocacy/special-projects/modernising-drug-law-enforcement> (accessed December 21, 2015).
- Johnston, L. D., P. M. O'Malley, J. G. Bachman, J. E. Schulenberg, and R. A. Miech. 2014. *Demographic subgroup trends among adolescents in the use of various licit and illicit drugs 1975–2013*. Monitoring the Future Occasional Paper No. 81). Ann Arbor, MI: Institute for Social Research. <http://www.monitoringthefuture.org/pubs/occpapers/mtf-occ81.pdf> (accessed January 14, 2016).
- Johnston, L. D., P. M. O'Malley, R. A. Miech, J. G. Bachman, and J. E. Schulenberg. 2013. Monitoring the future: National survey results on drug use 1975–2013. 2013 overview. Key findings on adolescent drug use. Institute for Social Research, University of Michigan: The National Institute on Drug Abuse, National Institutes of Health. <http://www.monitoringthefuture.org/pubs/monographs/mtf-overview2013.pdf> (accessed December 21, 2015).
- Levine, H. G., J. B. Gettman, and L. Siegel 2010, October. Arresting Blacks for Marijuana in California: Possession Arrests in 25 Cities, 2006–08, Prepared by the Marijuana Arrest Research Project for the Drug Policy Alliance and the California NAACP. <http://www.drugpolicy.org/sites/default/files/ArrestingBlacks.pdf> (accessed December 21, 2015).
- Levy, J. 2014. The harms of drug use: Criminalisation, misinformation, and stigma. International Network of People that Use Drugs (INPUD). [http://www.inpud.net/The\\_Harms\\_of\\_Drug\\_Use\\_JayLevy2014\\_INPUD\\_YouthRISE.pdf](http://www.inpud.net/The_Harms_of_Drug_Use_JayLevy2014_INPUD_YouthRISE.pdf) (accessed December 21, 2015).

- Levy, S., L. M. Siqueira, S. D. Ammerman, P. K. Gonzalez, S. A. Ryan, L. M. Siqueira, and V. C. Smith. 2014. Testing for drugs of abuse in children and adolescents. *Pediatrics* 133 (6):e1798–807. doi:10.1542/peds.2014-0865.
- Males, M. 2012. *Reform cuts marijuana possession arrests 86% in 2011, upends California drug policing*. California Progress Report. San Francisco, CA: Center on Criminal and Juvenile Justice. <http://www.cjcj.org/news/5542> (accessed December 21, 2015).
- Males, M. 2014. Marijuana legalizers should move debate forwards, not backwards. The California Progress Report. <http://www.californiaprogressreport.com/site/marijuana-legalizers-should-move-debate-forwards-not-backwards> (accessed December 21, 2015).
- Males, M., and L. Buchen 2014. Reforming marijuana laws: Which approach best reduces the harms of criminalization? A five-state analysis. Center on Juvenile and Criminal Justice (CJCS) Research Report. [http://www.cjcj.org/uploads/cjcj/documents/cjcj\\_marijuana\\_reform\\_comparison.pdf](http://www.cjcj.org/uploads/cjcj/documents/cjcj_marijuana_reform_comparison.pdf) (accessed December 21, 2015).
- Matthews, W., and R. McCray. 2012. *The incomplete story told by California's declining juvenile arrest rates*. San Francisco, CA: American Civil Liberties Union (ACLU). <https://www.aclu.org/blog/criminal-law-reform/incomplete-story-told-californias-declining-juvenile-arrest-rates>.
- Morgan, E., N. Salomon, M. Plotkin, and R. Cohen. 2014. *The school discipline consensus report: Strategies from the field to keep students engaged in school and out of the juvenile justice system*. New York: The Council of State Governments Justice Center. [https://csgjusticecenter.org/wp-content/uploads/2014/06/The\\_School\\_Discipline\\_Consensus\\_Report.pdf](https://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf).
- National Institute on Drug Abuse (NIDA). 2013, December. *Monitoring the Future Survey, Overview of Findings 2013*. <https://www.drugabuse.gov/monitoring-future-survey-overview-findings-2013> (accessed December 21, 2015).
- National Research Council. 2014. *The growth of incarceration in the United States: Exploring causes and consequences*. Washington, DC: National Academies Press.
- New York Times Editorial Board. 2015, March 26. Backing away from zero tolerance. *New York Times*.
- Pew Charitable Trusts. 2014. Prison and crime: A complex link, crime drop since 1994 has been bigger in states that cut imprisonment rates. <http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/prison-and-crime> (accessed December 21, 2015).
- Rolles, S., and N. Eastwood 2012. Drug decriminalisation policies in practice: A global summary. Bristol, UK: Transform Drug Policy Foundation. Release. [http://www.ihra.net/files/2012/09/04/Chapter\\_3.4\\_drug-decriminalisation\\_.pdf](http://www.ihra.net/files/2012/09/04/Chapter_3.4_drug-decriminalisation_.pdf) (accessed December 21, 2015).
- Rolles, S., and G. Murkin 2013. How to regulate cannabis: A practical guide. Bristol, UK: Transform Drug Policy Foundation. <http://www.tdpf.org.uk/resources/publications/how-regulate-cannabis-practical-guide> (accessed December 21, 2015).
- Rosmarin, A., and N. Eastwood 2012. A quiet revolution: Drug decriminalisation policies in practice across the globe. New York: Open Society Foundation. <http://www.opensocietyfoundations.org/reports/quiet-revolution-drug-decriminalisation-policies-practice-across-globe> (accessed December 21, 2015).
- Smith, P., P. Gendreau, and C. Goggin. 2002. *The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences*. Solicitor General Canada. <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ffcts-prsn-sntnscs/ffcts-prsn-sntnscs-eng.pdf>.
- Stevens, W. D., L. Sartain, E. M. Allensworth, R. Levenstein, S. Guiltinan, N. Mader, M. H. Huynh, and S. Porter 2015. Discipline practices in Chicago schools: Trends in the use of suspensions and arrests. University of Chicago Consortium on Chicago School Research (UChicagoCCSR). <https://ccsr.uchicago.edu/sites/default/files/publications/Discipline%20Report.pdf> (accessed December 21, 2015).
- The Partnership at DrugFree.org. 2013. Marijuana: It's legal, now what? A dialogue about America's changing attitudes, laws and what this means for families. A marijuana attitudes survey: Report summary. The Partnership at DrugFree.Org. <http://www.drugfree.org/wp-content/uploads/2013/07/Marijuana-Attitudes-Survey-Summary-Report.pdf>.
- U.S. Dept. of Education. 2014, January. Guiding principles: A resource guide for improving school climate and discipline. <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf> (accessed December 21, 2015).
- Vuolo, M. 2013. National-level drug policy and young people's illicit drug use: A multilevel analysis of the European Union. *Drug and Alcohol Dependence* 131 (1–2):149–56. doi:10.1016/j.drugalcdep.2012.12.012.
- Webb, C. 2014. What criminal charges affect student financial aid. eHow [http://www.ehow.com/info\\_12048830\\_charges-affect-financial-aid.html](http://www.ehow.com/info_12048830_charges-affect-financial-aid.html) (accessed December 21, 2015).
- Zuffa, G. 2011. *How to determine personal use in drug legislation: The "threshold controversy" in the light of the Italian experience*. Amsterdam, Netherlands: Transnational Institute. <http://www.undrugcontrol.info/images/stories/documents/dlr15.pdf> (accessed December 21, 2015).



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