

MARIJUANA PROHIBITION FACTS

2006

- ▶ Very few Americans had even heard about marijuana when it was first federally prohibited in 1937. Today, between 95 and 100 million Americans admit to having tried it, and about 14.5 million say they use it at least monthly.^{1,2}
- ▶ According to government-funded researchers, high school seniors consistently report that marijuana is easily available, despite decades of a nationwide drug war. With little variation, every year about 85% consider marijuana “fairly easy” or “very easy” to obtain.³ Data from the U.S. Centers for Disease Control and Prevention show that more U.S. high school students currently smoke marijuana, which is completely unregulated, than smoke cigarettes, which are sold by regulated businesses.⁴
- ▶ There have been over seven million marijuana arrests in the United States since 1995, including 771,984 arrests in 2004 — more than for all violent crimes combined, and an all-time record. One person is arrested for marijuana every 41 seconds. About 89% of all marijuana arrests are for possession — not manufacture or distribution.⁵
- ▶ Every comprehensive, objective government commission that has examined the marijuana phenomenon throughout the past 100 years has recommended that adults should not be criminalized for using marijuana.⁶
- ▶ Cultivation of even one marijuana plant is a federal felony.
- ▶ Lengthy mandatory minimum sentences apply to myriad offenses. For example, a person must serve a five-year mandatory minimum sentence if federally convicted of cultivating 100 marijuana plants — including seedlings or bug-infested, sickly plants. This is longer than the average sentences for auto theft and manslaughter!⁷
- ▶ A one-year minimum prison sentence is mandated for “distributing” or “manufacturing” controlled substances within 1,000 feet of any school, university, or playground. Most areas in a city fall within these “drug-free zones.” An adult who lives three blocks from a university is subject to a one-year mandatory minimum sentence for selling an ounce of marijuana to another adult — or even growing one marijuana plant in his or her basement.⁸
- ▶ While exact figures are unavailable, conservative estimates indicate that between 32,500 and 40,000 Americans are in prison or jail on marijuana charges right now — more than the entire prison populations of eight individual European Union countries combined.⁹
- ▶ A recent study of prisons in four Midwestern states found that approximately one in ten male inmates reported that they had been raped while in prison.¹⁰ Rates of rape and sexual assault against women prisoners, who are most likely to be abused by male staff members, have been reported to be as high as 27 percent in some institutions.¹¹
- ▶ Civil forfeiture laws allow police to seize the money and property of suspected marijuana offenders — charges need not even be filed. The claim is against the property, not the defendant. The owner must then prove that the property is “innocent.” Enforcement abuses stemming from forfeiture laws abound.¹²
- ▶ According to estimates by Harvard University economist Jeffrey Miron, replacing marijuana prohibition with a system of taxation and regulation would save between \$10 billion and \$14 billion per year in reduced government spending and increased tax revenues.¹³
- ▶ Many patients and their doctors find marijuana a useful medicine as part of the treatment for AIDS, cancer, glaucoma, multiple sclerosis, and other ailments. Yet the federal government allows only seven patients in the United States to use marijuana as a medicine, through a program now closed to new applicants. Federal laws treat all other patients currently using medical marijuana as criminals. Doctors are presently allowed to prescribe cocaine and morphine — but not marijuana.^{14,15}
- ▶ Organizations that have endorsed medical access to marijuana include: the AIDS Action Council, American Academy of Family Physicians, American Public Health Association, American Academy of HIV Medicine, American Nurses Association, Lymphoma Foundation of America, National Association of People With AIDS, the state medical associations of New York, California, and Rhode Island, and many others.
- ▶ A few of the many editorial boards that have endorsed medical access to marijuana include: *Boston Globe*, *Chicago Tribune*, *Miami Herald*, *New York Times*, *Orange County Register*, *USA Today*, *Baltimore’s Sun*, and *The Los Angeles Times*.
- ▶ Since 1996, a majority of voters in Alaska, Arizona, California, Colorado, the District of Columbia, Maine, Montana, Nevada, Oregon, and Washington state have voted in favor of ballot initiatives to remove criminal penalties for seriously ill people who grow or possess medical marijuana.
- ▶ Fifty-five percent of Americans believe possession of small amounts of marijuana should not be treated as a criminal offense. Seventy-eight percent support “making marijuana legally available for doctors to prescribe in order to reduce pain and suffering.”¹⁶



▶ “Decriminalization” involves the removal of criminal penalties for possession of marijuana for personal use. Small fines may be issued (somewhat similarly to traffic tickets), but there is typically no arrest, incarceration, or criminal record. Marijuana is presently decriminalized in 11 states — California, Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, and Oregon. In these states, cultivation and distribution remain criminal offenses.

▶ Decriminalization saves a tremendous amount in enforcement costs. California saves \$100 million per year.¹⁷

▶ A 2001 National Research Council study sponsored by the U.S. government found “little apparent relationship between the severity of sanctions prescribed for drug use and prevalence or frequency of use, and ... perceived legal risk explains very little in the variance of individual drug use.” The primary evidence cited came from comparisons between states that have and have not decriminalized marijuana.¹⁸

▶ In the Netherlands, where adult possession and purchase of small amounts of marijuana are allowed under a regulated system, the rate of marijuana use by teenagers is far lower than in the U.S.^{3,19} Under a regulated system, licensed merchants have an incentive to check ID and avoid selling to minors. Such a system also separates marijuana from the trade in hard drugs such as cocaine and heroin.

▶ “Zero tolerance” policies against “drugged driving” can result in “DUI” convictions of drivers who are not intoxicated at all. Trace amounts of THC metabolites — detected by commonly used tests — can linger in blood and urine for weeks after any psychoactive effects have worn off. This is equivalent to convicting someone of “drunk driving” weeks after he or she drank one beer.²⁰

▶ The arbitrary criminalization of tens of millions of Americans who consume marijuana results in a large-scale lack of respect for the law and the entire criminal justice system.

▶ Marijuana prohibition subjects users to added health hazards:

- Adulterants, contaminants, and impurities — Marijuana purchased through criminal markets is not subject to the same quality control standards as are legal consumer goods. Illicit marijuana may be adulterated with much more damaging substances; contaminated with pesticides, herbicides, or fertilizers; and/or infected with molds, fungi, or bacteria.

- Inhalation of hot smoke — One well-established hazard of marijuana consumption is the fact that smoke from burning plant material is bad for the respiratory system. Laws that prohibit the sale or possession of paraphernalia make it difficult to obtain and use devices such as vaporizers, which can reduce these risks.²¹

▶ Because vigorous enforcement of the marijuana laws forces the toughest, most dangerous criminals to take over marijuana trafficking, prohibition links marijuana sales to violence, predatory crime, and terrorism.

▶ Prohibition invites corruption within the criminal justice system by giving officials easy, tempting opportunities to accept bribes, steal and sell marijuana, and plant evidence on innocent people.

▶ Because marijuana is typically used in private, trampling the Bill of Rights is a routine part of marijuana law enforcement — e.g., use of drug dogs, urine tests, phone taps, government informants, curbside garbage searches, military helicopters, and infrared heat detectors. ■

NOTES

1. Substance Abuse and Mental Health Administration, U.S. Department of Health and Human Services, *National Survey on Drug Use and Health*, 2004, Table H.1.
2. Time/CNN poll of adults, *Time*, Nov. 4, 2002. Forty-seven percent said they had tried marijuana at least once.
3. Johnston, L. D., O'Malley, P. M., Bachman, J. G. & Schulenberg, J. E. (December 19, 2005). *Teen drug use down but progress halts among youngest teens* (2005 Monitoring the Future survey results). University of Michigan News and Information Services: Ann Arbor, MI.
4. Centers for Disease Control and Prevention, *Youth Risk Behavior Surveillance -- United States, 2003*, May 21, 2004, MMWR 2004:3(No. SS-2), tables 20 and 28.
5. Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, annually.
6. For example, *Report of the Indian Hemp Drugs Commission*, 1894; *The Panama Canal Zone Military Investigations*, 1925; *The Marihuana Problem in the City of New York* (LaGuardia Committee Report), 1944; *Marihuana: A Signal of Misunderstanding* (Nixon-Shafer Report), 1972; *An Analysis of Marijuana Policy* (National Academy of Sciences), 1982; *Cannabis, Our Position for a Canadian Public Policy* (Report of the Senate Special Committee on Illegal Drugs), 2002, and others.
7. 21USC841(b)(1)(B); 1996 *Sourcebook of Federal Sentencing Guidelines*, U.S. Sentencing Commission, 1997; p. 24.
8. 21USC860(a); report from Congressional Research Service, June 22, 1995.
9. Zeidenberg, Jason and Colburn, Jason. *Efficacy & Impact: The Criminal Justice Response to Marijuana Policy in the U.S.*, Justice Policy Institute, August 25, 2005
10. Struckman-Johnson, Cindy, and Struckman-Johnson, David, *Sexual Coercion Rates in Seven Midwestern Prisons for Men*, *The Prison Journal*, December 2000, pp. 379-90.
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12. U.S. Rep. Henry Hyde (R-IL), *Forfeiting Our Property Rights: Is Your Property Safe From Seizure?* Cato Institute, 1995.
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15. Marijuana Policy Project, *Medical Marijuana Briefing Paper*, 2006.
16. National Gallup poll, Nov. 1, 2005.
17. Aldrich, Michael, Ph.D., and Mikuriya, Tod, M.D., “Savings in California Marijuana Law Enforcement Costs Attributable to the Moscone Act of 1976 — A Summary,” *Journal of Psychoactive Drugs*, Vol. 20(1), Jan.-March 1988; pp. 75-81.
18. National Research Council, *Informing America's Policy on Illegal Drugs: What We Don't Know Keeps Hurting Us*, National Academy Press, 2001; pp. 192-93.
19. Nationale Drug Monitor, *Annual Report NDM 2004*, Trimbos Institute, 2005.
20. Swann, P., “The Real Risk of Being Killed When Driving Whilst Impaired by Cannabis,” *Australian Studies of Cannabis and Accident Risk*, 2000.
21. Mirken, Bruce, “Vaporizers for Medical Marijuana,” *AIDS Treatment News*, Issue #327, September 17, 1999.