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10-28-2015

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# The Potential Impact of Legalizing, Regulating, and Taxing Marijuana on Erie County and New York State

## Abstract

The costs of continuing the prohibition of marijuana far outweigh the benefits. Prohibition costs the public a large amount of money in law enforcement expenses and lost tax revenue; it imposes great harms on individuals, families and neighborhoods by criminalizing relatively harmless behavior and spawning a large, violent, underground economy; and it contributes heavily to the large racial disparities in our criminal justice system.

## Keywords

Buffalo, Criminal Justice, Crime, Policy Brief, PPG, PDF

## The Potential Impact of Legalizing, Regulating and Taxing Marijuana On Erie County and New York State

*Sam Magavern*

### Summary

The costs of continuing the prohibition of marijuana far outweigh the benefits. Prohibition costs the public a large amount of money in law enforcement expenses and lost tax revenue; it imposes great harms on individuals, families and neighborhoods by criminalizing relatively harmless behavior and spawning a large, violent, underground economy; and it contributes heavily to the large racial disparities in our criminal justice system.

### The Vast Scope of Prohibition

Many people are unaware of the vast scope of the war on marijuana. Nationwide, marijuana accounted for nearly 80 percent of the rise in drug arrests in the 1990s and now represents more than half of all drug arrests in the United States.<sup>1</sup> From 2001 to 2010, the police made more than 8.2 million marijuana arrests; almost 90 percent were for possession alone.<sup>2</sup> Between 20,000 and 30,000 people are currently imprisoned solely for marijuana offences.<sup>3</sup> These figures are startling, given that most Americans favor the legalization of marijuana.<sup>4</sup> While marijuana has health impacts, they appear far less severe than those of legal substances such as alcohol and tobacco, and much better addressed by public health regulations than by criminal laws.<sup>5</sup>

New York had the highest rate of marijuana arrests of any state in 2010, arresting more than 100,000 people for marijuana, with 97 percent of those charges being for possession, not dealing.<sup>6</sup> Erie County saw the eighth largest increase in possession arrests between 2001 and 2010, with 4,991 marijuana possession arrests in 2010 alone.<sup>7</sup>

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### Prohibition Fuels Crime and Imposes Large Costs

Prohibition fuels violence and crime, just as it did with alcohol in the 1920s. Because so many people use marijuana (42 percent of the US public has tried it), but it is illegal, it becomes a large part of the underground economy – an economy in which disputes cannot be managed by the rule

of law, and so are managed by violence.<sup>8</sup> Due to prohibition, marijuana buyers and sellers are not paying taxes, causing a major loss of revenue for states and municipalities. In Colorado, for the fiscal year ending June 30, 2015, marijuana taxes brought in almost \$70 million in tax revenue (much more than alcohol taxes, which brought in \$42 million).<sup>9</sup> Washington State is expecting over \$1 billion in tax revenue from marijuana over the next four years.<sup>10</sup> And, of course, prosecution is expensive; in 2010, New York taxpayers paid \$678.5 million in police and court costs for marijuana enforcement.<sup>11</sup> Nationwide, between prosecution costs and lost tax revenue, the cost of marijuana prohibition is \$20 billion per year.<sup>12</sup>

Washington State is expecting over \$1 billion in revenue from marijuana over the next four years. Nationwide, prohibition costs the taxpayers \$20 billion per year.

The failed war on drugs is destroying individuals, families, and whole neighborhoods. For the individual, involvement in the criminal justice system is terribly expensive because of fines, fees, and missed work. People with criminal records are often branded for life, making it hard to get employment, housing, or credit. For families, arrest and incarceration lead to absent parents and cause trauma, stigma, and poverty. For neighborhoods, the war on drugs spawns the crime, violence, and disruption of an underground economy, combined with an invasive police presence that damages already difficult relationships between law enforcement and urban communities.

### **Racial Disparities in Drug Enforcement**

As the Partnership for the Public Good reported in *Alarming Disparities* (2013), Erie County's justice system has shocking racial disparities. African Americans account for only 14 percent of the population, but 43 percent of arrests.<sup>13</sup> Drug offences are one of the leading areas of disparity. African-Americans incur 74 percent of prison sentences for drug felonies, and Hispanics, at less than 5 percent of the population, incur 12 percent of drug felony prison sentences.<sup>14</sup> The disparities are just as stark at the misdemeanor level, where African Americans face 69 percent of the arrests for possession of marijuana.<sup>15</sup> In 2013 in Buffalo, there were 450 blacks arrested for criminal possession of marijuana, 5th degree, compared to roughly 60 whites.<sup>16</sup> Given that national research shows that African Americans use marijuana at the same or lower rate as whites, the arrests are five times higher than they should be.<sup>17</sup>

African Americans are 14 percent of Erie County's population, but account for 69 percent of marijuana possession arrests, despite research showing that blacks and whites use marijuana at similar rates.

These local trends reflect a national crisis of racialized mass incarceration, which Michelle Alexander has named "The New Jim Crow." As Alexander reports, the nation's "War on Drugs" resulted in the number of people imprisoned for drugs rising from 41,000 in 1980 to 500,000

today.<sup>18</sup> Three fourths of those imprisoned for drugs are black or Latino.<sup>19</sup> Nationwide, blacks are 3.73 times more likely to be arrested for marijuana possession than whites.<sup>20</sup> Roughly 12.8 percent of New Yorkers use marijuana.<sup>21</sup> What distinguishes the 100,000 users who get arrested each year from the 2 million who do not? Race is clearly an important factor.

## **Conclusion**

Drug policy is among the most important civil rights issues of our day. Legalizing, regulating, and taxing marijuana is a critical first step toward a sane, public-health oriented drug policy. Given national trends, it will happen in New York at some point; however, it is important that it happens as soon as possible to limit the unacceptably high costs that prohibition is imposing on taxpayers, individuals, families, and neighborhoods.



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- <sup>1</sup> American Civil Liberties Union, “The War on Marijuana in Black and White” (June 2013). Available from [www.aclu.org](http://www.aclu.org).
- <sup>2</sup> Jesse Wegman, “The Injustice of Marijuana Arrests,” *New York Times*, July 28, 2014.
- <sup>3</sup> *Ibid.*
- <sup>4</sup> Pew Research Center, “In Debate Over Legalizing Marijuana, Disagreement Over Drug’s Dangers,” April 23, 2015. Available at <http://www.people-press.org/2015/04/14/in-debate-over-legalizing-marijuana-disagreement-over-drugs-dangers/>
- <sup>5</sup> According to the Institute of Medicine, less than 10 percent of those who try marijuana ever become dependent on it, compared to 15 percent of alcohol users and 32 percent of tobacco users. See Drug Policy Alliance, Ten Facts About Marijuana. Available from [www.drugpolicy.org](http://www.drugpolicy.org).
- <sup>6</sup> ACLU, “The War on Marijuana in Black and White” 14.
- <sup>7</sup> ACLU, “The War on Marijuana in Black and White,” 43.
- <sup>8</sup> *Ibid.*, 10.
- <sup>9</sup> Tanya Basu, “Colorado Raised More Tax Revenue from Marijuana than From Alcohol,” *Time*, September 16, 2015.
- <sup>10</sup> Kate Smith, “Washington Expects Pot Sales Tax Revenue Surge to \$1 Billion,” *Bloomberg*, October 23, 2015.
- <sup>11</sup> New York Civil Liberties Union, “NYCLU Analysis Exposes Stark Racial Disparities,” June 6, 2013. Available at: <http://www.nyclu.org/news/nyclu-analysis-exposes-stark-racial-disparities-marijuana-arrests-counties-across-new-york-stat>
- <sup>12</sup> Drug Policy Alliance, Ten Facts About Marijuana. Available from [www.drugpolicy.org](http://www.drugpolicy.org).
- <sup>13</sup> Partnership for the Public Good, “Alarming Disparities: the Disproportionate Number of African American and Hispanic People in the Erie County Criminal Justice System” (2013). Available from: [www.ppgbuffalo.org](http://www.ppgbuffalo.org).
- <sup>14</sup> *Ibid.*
- <sup>15</sup> *Ibid.*
- <sup>16</sup> Analysis of New York Division of Criminal Justice statistics by the Buffalo Marijuana Movement, available from the author.
- <sup>17</sup> ACLU, “The War on Marijuana in Black and White,” 21.
- <sup>18</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: the New Press, 2012),
- <sup>19</sup> *Ibid.*
- <sup>20</sup> ACLU, “The War on Marijuana in Black and White,” 9.
- <sup>21</sup> CBS News, “17 Stoner States: Where’s Marijuana Use the Highest.” Available at <http://www.cbsnews.com/pictures/17-stoner-states-wheres-marijuana-use-highest/7/>

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