

## BEYOND THE CLAIMS

---

It would be wrong to suggest that simple-possession offenders *never* see the inside of a prison cell. Sometimes they do, of course. A few may be sentenced outright, even when no other charges or aggravating factors are involved. But there is also a range of other circumstances under which a simple-possession marijuana offender might receive a prison sentence. For example, this could happen if:

- the marijuana offense was committed while the offender was on probation or parole;
- an offender charged with a more serious crime pleads guilty to the lesser offense of marijuana possession but, as part of a plea bargain, is required to serve a prison sentence;
- the offender has a criminal history, particularly one involving drugs or violent crime;
- the violation took place in a designated drug-free zone (such as on school property); or
- the marijuana sentence piggybacks (runs concurrent with) the sentence for one or more other offenses;

Despite overwhelming evidence to the contrary, there is no shortage of claims about so-called victims of the drug war who, charged with nothing more than minor marijuana violations, are serving long prison terms. Some of these allegations are grounded in truth but lack crucial elaboration or context. Most are exaggerations or blatant fiction. On the next two pages are a few claims that have been put forward by marijuana advocates, followed by facts that tell a different story.

## THE CLAIM:

---

- “There have been 13,000,000 marijuana-related arrests since 1970.”<sup>19</sup>
- “In all, 704,812 Americans were arrested last year on marijuana-related charges.”<sup>20</sup>
- “800,000 people are arrested on marijuana charges each year.”<sup>21</sup>
- “5.2 million marijuana arrests since 1992.”<sup>22</sup>

## LOOK AGAIN:

It's true that many people are arrested for offenses involving marijuana. However, the above assertions are vague and misleading, in that “marijuana-related arrests,” “marijuana-related charges,” “marijuana charges,” and “marijuana arrests” do not distinguish between a college student caught with one joint and a trafficker with several tons. Nor do they reflect how many of those arrests involved other, more serious crimes, or how many of those arrests actually led to incarceration.

## THE CLAIM:

---

“The penalties for a first pot offense range from probation to life in prison and fines of up to \$4 million, depending on the amount of pot.”<sup>23</sup>

## LOOK AGAIN:

The probation part of that statement is correct. The part about life in prison and a \$4 million fine evidently comes from the Federal Sentencing Guidelines for the sale or cultivation of enormous amounts of marijuana. To generate a life sentence in federal court, a conviction would have to involve at least 33 *tons* of marijuana and additional aggravating factors, such as a leadership role in a continuing criminal activity. No one can get a life sentence in federal prison for marijuana based solely on the amount involved.<sup>24</sup>

A few states—including Mississippi, Montana, Nevada, Oklahoma, and Texas—do, in fact, allow judges to impose a life sentence even for a first pot offense. Texas applies this provision only to trafficking offenses and to possession cases involving a ton or more of marijuana, and in Nevada, a life sentence is possible with possession of 10,000 pounds—five tons—or more. In the other states mentioned above, a first-time marijuana offense can draw a life sentence only if the case involves the sale, manufacture, or cultivation of the drug, not mere possession.<sup>25</sup>

## THE CLAIM:

---

“Even peaceful marijuana smokers sentenced to ‘life MMS’ [mandatory minimum sentences] must serve a life sentence with no chance of parole.”<sup>26</sup>

## LOOK AGAIN:

Mandatory minimums generally do not apply in cases involving only simple possession of marijuana, particularly for a first offense. Rather, states that set mandatory minimums for marijuana offenses usually apply them only to the cultivation, sale, or trafficking of the drug. So unless “peaceful marijuana smokers” are found guilty of more than simple possession, it is highly unlikely they will face a mandatory minimum sentence.

There are, however, a few very specific exceptions to this rule. In Louisiana, for instance, a first-time conviction for possession of marijuana on a school bus or within 1,000 feet of a school, religious building, or public housing triggers a mandatory minimum sentence of at least three months.<sup>27</sup>

In the great majority of cases, people serving long prison terms for marijuana have been convicted of crimes far more serious than simple possession. They have previous felony convictions or have been found guilty of such offenses as distributing, selling, manufacturing, or illegally importing drugs, money-laundering, violating parole or drug kingpin statutes, or various combinations of those crimes.

It’s also true that a number of inmates technically serving time for marijuana possession have been convicted of that offense *along with* another, more serious crime. Most often in cases like this, the sentence for marijuana possession is simply running concurrent with (at the same time as) the more serious sentence. So while they may indeed have been convicted for marijuana possession, it was the other, more serious crime that put them behind bars.

