

## SUMMARY

---

The idea that our nation's prisons are overflowing with otherwise law-abiding people convicted for nothing more than simple possession of marijuana is treated by many as conventional wisdom.

But this, in fact, is a myth—an illusion conjured and aggressively perpetuated by drug advocacy groups seeking to relax or abolish America's marijuana laws. In reality, the vast majority of inmates in state and federal prison for marijuana have been found guilty of much more than simple possession. Some were convicted for drug trafficking, some for marijuana possession along with one or more other offenses. And many of those serving time for marijuana pled down to possession in order to avoid prosecution on much more serious charges.

In 1997, the year for which the most recent data are available, just 1.6 percent of the state inmate population were held for offenses involving *only* marijuana, and less than one percent of all state prisoners (0.7 percent) were incarcerated with marijuana *possession* as the only charge, according to the U.S. Department of Justice's Bureau of Justice Statistics (BJS). An even smaller fraction of state prisoners in 1997 who were convicted just for marijuana possession were first-time offenders (0.3 percent).

**In reality, the vast majority of inmates in state and federal prison for marijuana have been found guilty of much more than simple possession.**

The numbers on the federal level tell a similar story. Out of all drug defendants sentenced in federal court for marijuana crimes in 2001, the overwhelming majority were convicted for *trafficking*, according to the U.S. Sentencing Commission. Only 2.3 percent—186 people—received sentences for simple possession, and of the 174 for whom sentencing information is known, just 63 actually served time behind bars.

Drug use harms the user and it harms the community, and because of this, criminal penalties have been put in place to control the possession and use of illicit substances. Built into the criminal justice system is an appropriate measure of discretion that responds to the gravity of the offense. Those who persistently violate the country's drug laws face criminal penalties, which may include time behind bars. For offenders whose involvement in law-breaking is minor, the sanctions are slight and often involve a referral to treatment rather than incarceration.

And yet, in spite of these facts, a false characterization continues to be promoted that depicts the criminal-justice response to marijuana violations as unduly harsh, exclusively punitive, and disproportionate. This characterization must be countered by the truth, which is this: Americans are not routinely being sent to prison in large numbers just for possessing small amounts of marijuana. Our criminal justice system, on the whole, is fair and equitable, and despite frequent claims to the contrary, there's very little chance that anyone in this country, particularly a first-time offender, will be sent to prison for merely puffing a "joint."