

MYTH 10

The government sends otherwise innocent people to prison for casual marijuana use.

On the contrary, it is extremely rare for anyone, particularly first-time offenders, to get sent to prison just for possessing a small amount of marijuana. In most states, possession of an ounce or less of pot is a misdemeanor offense, and some states have gone so far as to downgrade simple possession of marijuana to a civil offense akin to a traffic violation.

The numbers speak for themselves. In 1997, according to the U.S. Department of Justice's Bureau of Justice Statistics (BJS), only 1.6 percent of the state inmate population had been convicted of a marijuana-only crime, including trafficking. An even smaller percentage of state inmates were imprisoned with marijuana *possession* as the only charge (0.7 percent). And only 0.3 percent of those imprisoned just for marijuana possession were first-time offenders.⁷²

More recent estimates from the BJS show that at midyear 2002, approximately 8,400 state prisoners were serving time for possessing marijuana in any amount. Fewer than half of that group, or about 3,600 inmates, were incarcerated on a first offense.⁷³ In other words, of the more than 1.2 million people doing time in state prisons across America,⁷⁴ only a small fraction were first-time offenders sentenced just for marijuana possession. And again, this figure includes possession of *any* amount.

Many inmates ultimately sentenced for marijuana possession were initially charged with more serious crimes but were able to negotiate reduced charges or lighter sentences through plea agreements with prosecutors.

On the federal level, prosecutors focus largely on traffickers, kingpins, and other major drug criminals, so federal marijuana cases often involve hundreds of pounds of the drug. Cases involving smaller amounts are typically handled on the state level. This is part of the reason why hardly anyone ends up in federal prison for simple possession of marijuana. The fact is, of all drug defendants sentenced in federal court for marijuana offenses in 2001, the vast majority were convicted of trafficking. Only 2.3 percent—186 people—were sentenced for simple possession, and of the 174 for whom sentencing information is known, just 63 actually served time behind bars.⁷⁵

It's important to point out that many inmates ultimately sentenced for marijuana possession were initially charged with more serious crimes but were able to negotiate reduced charges or lighter sentences through plea agreements with prosecutors. Therefore, the 2.3 percent figure for simple-possession defendants may give an inflated impression of the true number, since it also includes those inmates who pled down from more serious charges.

The goal of drug laws is not merely to punish, but to reduce drug use and help keep people from harming themselves and others with this destructive behavior. In recent years, with the introduction of drug courts and similar programs, there has been a shift within the U.S. criminal justice system toward providing treatment rather than incarceration for drug users and non-violent offenders with addiction problems. Today, in fact, the criminal justice system is the largest source of referral to drug treatment programs.⁷⁶