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The evolution of drug laws in America and the variation in penalties and sentencing in state courts

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THE EVOLUTION OF DRUG LAWS IN AMERICA AND THE VARIATION IN PENALTIES AND SENTENCING IN STATE COURTS

by

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ABSTRACT

The Evolution of Drug Laws in America and the Variation in Penalties and Sentencing in State Courts

by

Robert Christopher Hogenson

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The purpose of this study was to examine the evolution of major drug laws in the United States, the variation in statutory penalties between selected states, and to determine if the written law is reflected in sentencing and prison admissions. Penalties for felony possession and illicit trafficking for five states-Arizona, Florida, Illinois, Nevada, and New York-were compared with case disposition, incarceration rates, and average time offenders spend in jail or prison for these offenses. Two data sources from Bureau of Justice Statistics were utilized for this analysis. The first data set was titled “State Court Processing Statistics, 1990, 1992, 1994, and 1996: Felony Defendants in Large Urban Counties.” The second data set was titled “National Corrections Reporting Program: 1998.” These two sources provided data on the above stated variables. Results of analysis indicate that variation in statutory penalties do in fact exist, and certain states have more punitive aspects than others. However, the length of time offenders spend in jail or prison within selected states that have more punitive aspects in their statutes are comparable to, and sometimes, less punitive in the sentencing of offenders.
TABLE OF CONTENTS

ABSTRACT ........................................................................................................................... iii

LIST OF TABLES .................................................................................................................. v

ACKNOWLEDGEMENTS ................................................................................................ vi

CHAPTER 1 INRODUCTION ............................................................................................... 1
   Statement of the Problem ............................................................................................... 3

CHAPTER 2 LITERATURE REVIEW ................................................................................. 5
   The Evolution of Drug Legislation in America ............................................................. 5
   The Effects of Federal Drug Policy on State-Level Legislation .................................. 21

CHAPTER 3 RESEARCH & METHODOLOGY ................................................................ 24
   Objectives of the Study ................................................................................................. 24
   Rationale for Sample Selection ..................................................................................... 25
   Sources of Data ............................................................................................................. 25
   Limitations of the Data ................................................................................................. 29

CHAPTER 4 RESEARCH FINDINGS ................................................................................ 31

CHAPTER 5 DISCUSSION & CONCLUSIONS ................................................................ 51
   Recommendations for Future Research ....................................................................... 56
   Summary and Conclusion ............................................................................................. 57

APPENDIX ............................................................................................................................ 62

BIBLIOGRAPHY ................................................................................................................. 69

VITA ...................................................................................................................................... 71
LIST OF TABLES

Table 1. Schedule of Controlled Substances ................................................................. 18
Table 2. Felony Possession Penalties in Arizona ........................................................ 32
Table 3. Felony Possession Penalties in Florida ....................................................... 33
Table 4. Felony Possession Penalties in Illinois ........................................................ 33
Table 5. Felony Possession Penalties in Nevada ....................................................... 34
Table 6. Felony Possession Penalties in New York .................................................. 34
Table 7. Arizona Trafficking Penalties ..................................................................... 36
Table 8. Florida Trafficking Penalties ..................................................................... 37
Table 9. Illinois Trafficking Penalties ...................................................................... 37
Table 10. Nevada Trafficking Penalties ................................................................. 38
Table 11. New York Trafficking Penalties .............................................................. 38
Table 12. Arrests Per 100,000 for Drug Violations Committed By Adults ............... 40
Table 13. Percentage of Felons' Most Serious Conviction Charge By Offense ......... 41
Table 14. Case Disposition of Felonies: Arizona ..................................................... 42
Table 15. Case Disposition of Felonies: Florida ...................................................... 42
Table 16. Case Disposition of Felonies: Illinois ...................................................... 43
Table 17. Case Disposition of Felonies: New York .................................................. 43
Table 18. Prison, Jail, or Non-Incarcerative Sentence (Trafficking) ......................... 45
Table 19. Prison, Jail, or Non-Incarcerative Sentence (Possession) ......................... 45
Table 20. Average Length of Prison Sentence For Most Serious Offense ............... 47
Table 21. Total Time Served as a Percentage of the Maximum Sentence ............... 49
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CHAPTER 1

INTRODUCTION

The current drug policy in the United States has been and will continue to be an issue that has sparked heated debate between policy makers, law enforcement officials, and academic scholars that have chosen to study its many different aspects and numerous implications. After reviewing empirical research, statistics on prison inmate populations, state and federal legislation, and policy recommendations, it is clear that there is not a particular "drug policy" which could curb the flow of drugs into this country. There is also not an end all policy in place that can stop individuals from consuming narcotics at this time, nor in any foreseeable future. There was a false hope on the part of drug legislators that America would be drug free by the year 1995, and one cannot help but notice that the drug problem in this country has not only increased dramatically, but climbed to a level that has become what some policy makers have viewed as unmanageable (Gray, 2001).

It was made obvious in May of 2001 that the Supreme Court is predominantly conservative in their views regarding illegal drugs and drug abusers in general after rejecting several state initiatives to legalize marijuana for medicinal purposes. These legal interpreters are proponents against legalization of any currently illegal drug, and continue to see law enforcement efforts and punishment as the primary answer to solving the illicit drug problem in the United States. If they see these tactics as the answer, new steps and initiatives must be taken if the tables are going to be turned on what some of
these policy makers and legalization proponents have viewed as current failures of the
War on Drugs.

Within the review of the literature for this study, a significant amount focused on
federal laws that were designed to combat the drug problem, starting in the early
twentieth century with the enactment of the 1914 Harrison Act. The Harrison Act was the
first piece of federal legislation that addressed narcotics and their distribution. Much of
this section of the literature review draws on Stephen Belenko's *Drugs and Drug Policy
In America* (2000), which is an extensive examination of the formation of federal and
state drug laws in the United States. Belenko's work covered all major federal
legislation, and his work was used as a primary source of information for this study.

The analysis section of this study focuses on the variation among selected state
drug laws, and a review of federal legislation that pertains to narcotics is important due to
the fact that state laws that are passed are reflective, and in many cases, enacted due to
federal law. Although federal law applies to all states, it has been historically
documented that states have experimented with different policies. In turn, the federal
government has subsequently adopted some of these state experiments (ImpacTeen Illicit
Drug Team, 2002; citing Musto 1999). For example, states were the first to experiment
with prohibitions on the sale and distribution of marijuana during the 1920's and 1930's.
By 1937, when the federal government passed the Marijuana Tax Act, all fifty states had
their own laws prohibiting the non-medical use of marijuana (ImpacTeen Illicit Drug
Team: 2002).

In addition to the adoption of policies that exist between federal and state
legislation, state trial courts are at the center of the criminal justice system and are
instrumental in determining how drug offenders are processed, how they are sentenced,
how much time they serve, and how they shape prison populations (Ostrom and
Kauder, 1999, p.1). State trial courts carry the burden of processing the greatest percentage of criminal violations of the law, many of which are drug offenses. For example, in 1998, state courts convicted 927,717 adults of a felony. Federal courts convicted 50,494, bringing the combined total to 978,211. State courts accounted for 95% of the national total in 1998 (Durose, Levin, & Langan, 2001).

Often, the public and policy makers believe that only federal drug policy is what matters. Federal drug policy is important and instrumental in developing national strategies, policies, and legislation that filters to the states. However, with state courts processing the majority of drug prosecutions in this country, most offenders are subject to state-level penalties.

Statement of the Problem

The primary purpose of this study is twofold. The first objective of this research is to investigate how the United States has arrived at its current state of affairs in regards to the drug problem and our current policies regarding illegal drugs in this country. While an in-depth history lesson is not the primary intent, it is however important to trace the roots of how the spread of drug addiction and distribution of illegal drugs came to be recognized as a major social issue and concern in this country. It is also relevant to review the policies that were implemented in the past and in more recent times to combat the problem not only on a national level, but on a state level as well.

The second objective of this study is to document variation in state felony drug laws and to examine the link between legislation and the processing of drug offenders. In the course of researching several states’ revised statutes regarding felony drug offenses, it became obvious that there are in fact jurisdictions that prosecute drug charges more vigilantly than others, and also impose longer sentences for convicted drug offenders.
While it may appear as if some of these statutory penalties are more punitive in nature than others, this study will attempt to address whether the severity of state drug laws affect conviction and sentencing rates within the states. However, given the current level of prison overcrowding in many states, it is possible that most offenders convicted of felony drug charges are not serving the actual length of time they are sentenced to, or perhaps not even being sent to prison at all. The exception to this trend is federal prisoners who are no longer eligible for parole and thus, must serve the full term of their imprisonment.

One can reasonably assume that, although some states may have harsher penalties and more punitive drug laws in their statutory penalties, their sentencing rates may be comparable, or even less punitive than states with more lenient statutes. It is also relevant to ask if the states that have more lenient statutory penalties have fewer offenders currently in prison who are arrested, convicted, and sentenced because their penalties are in fact less punitive in nature in terms of minimum and maximum sentences. Statutory penalties for violating sale or trafficking and possession provisions for illicit drugs vary greatly by substance, quantity of the substance sold or possessed, and by offense category (i.e. sale or possession). It is these variations that exist among states that this study attempts to address.
CHAPTER 2

LITERATURE REVIEW

The Evolution of Drug Legislation in America

Early Federal and State Laws

The roots of American drug policies to control and regulate drugs date back to the mid-nineteenth century. From the Civil War period through the end of the century, the use of opium, morphine, cocaine, and other psychoactive drugs were legal and quite common in the United States (Belenko, 2000). It was not until shortly after the turn of the century that the country began to realize that there was a widespread problem of addiction to certain drugs, primarily opium.

Most of the opium consumed in the United States during the nineteenth century was legally imported, and it was legal to grow opium poppies as well. Physicians prescribed opium for pain and other ailments such as coughs, diarrhea, and many other illnesses. What was not realized at this time was that people were taking the drug to cope with everyday life, and thus developing an addiction to it. As indicated by Belenko (2000), the profile of a typical drug addict of the nineteenth century differed from that of present day. Abuse of drugs, particularly opiates and morphine, was a primary problem of the middle class, and more prevalent among women than men. Some researchers have theorized that this can be attributed to the dominant male view of the time that women were more prone to nervous conditions and "female" problems. Also because of the fact
that alcohol consumption by women was frowned upon during this time period, which led to more widespread use of opiates among members of the female population.

In addition to the increasing attention to addiction problems from the prescribing of opium, the spread of opium smoking by the Chinese to whites in San Francisco during the 1870's became a matter of concern to federal and state legislators in the rest of the country as well. A number of cities and states began to enact laws prohibiting opium smoking and the operation of opium dens, and by 1914, twenty-seven states had such legislation (Belenko, 2000).

While state and local legislators created policies to deal with the problem, imports of opium for smoking continued to climb in the early part of the twentieth century. Federal control during this period was limited to tariffs placed on imported smoking opium (Belenko, 2000). It was not until 1909 that the importation of opium was finally made illegal by the Opium Exclusion Act of 1909. While the concern over opium smoking by the Chinese and Americans was widely recognized, and federal legislation was put in place to limit the importation of the drug, the patent medicine industry was the greater source of opium addiction, as it was commonly prescribed as a cure-all for various ailments.

Although most of the attention during the late nineteenth and early twentieth century was directed toward opium and its derivatives, other drugs began to become popular. Cocaine, one of the major drugs of abuse in the late twentieth century, was generally not considered a problem drug one hundred years ago (Belenko, 2000). Many physicians felt that cocaine had many benefits, including helping patients overcome opiate addiction (Belenko, 2000). Cocaine was even used in soft drinks during this time, and its properties as a stimulant were widely advertised as a cure for many real and imagined ills. Heroin, also one of the primary drugs of abuse during the late twentieth
The Federal Harrison Act of 1914

To deal with the rising concerns about the number of people addicted to opiates, other drugs through patent medicines, doctors’ prescriptions, and the importation of opium from China, the United States and its early drug reformers became involved in several international conferences aimed at developing agreements to place controls on opium trafficking and to reduce drug use. These early conferences served to help influence federal legislation and led directly to the drafting and enactment of the Harrison Act of 1914. This single law and its implementation were to shape federal anti-drug policies for the next fifty years (Belenko, 2000.)

The Harrison Act was enacted to deal with the rising problem of not only opium, but other drugs that were considered to be an increasing problem, such as cocaine, heroin, and morphine. Up until this time, much of the federal legislation in place was not sufficient in dealing with the distribution of these drugs by the medical industry. The Harrison Act of 1914 required anyone who imported, manufactured, sold, gave away, prescribed, or dispensed opiates or coca leaves to register with federal authorities and pay an annual tax or license fee. Those who failed to register or pay the required tax became subject to criminal penalties (Musto, 1999).

While the main provisions of the Harrison Act deal with the importation, dispensing, and distribution of narcotic drugs, the effects of its provisions were far reaching not only to physicians, but to addicts as well. One of the key effects of the Harrison Act was to greatly disrupt the availability of drugs to addicts (Musto, 1999). This occurred in part because the passage of the law made many physicians uneasy in prescribing drugs, and thus affected the availability of new drug supplies. The passage of
the Harrison Act also led to increased surveillance and monitoring of doctors and physicians because they were now required to keep records of drug distribution to patients, which in turn led to a large decrease in the legitimate dispensing of these narcotics. However, the country continued to have a serious problem with drug addiction, and addicts now turned to the illegitimate black market to receive illegal drugs. It can be argued that the Harrison Act had a direct impact on limiting the legitimate medical profession from prescribing drugs to addicts, and concurrently, aided in the development of the illicit black market which would become the chief source of drugs for chronic users beginning in the early 1920's.

**Early State Anti-Drug Laws**

The federal government was not the only group of legislators and drug reformers concerned with drug addiction before the passage of the Harrison Act. Several states had enacted laws against drug use before the passage of the Harrison Act, and by 1912, most states had passed laws regulating the sale of opium, cocaine, and their derivatives and preparations, requiring an original doctor’s prescription. In 1885, Ohio became one of the first states to regulate opium in a law against opium smoking (Belenko, 2000, p. 99). The first state to make cocaine illegal was Illinois in 1897, which passed a law making it illegal to sell or give away cocaine except on a doctor’s prescription.

Early state laws varied in their provisions and their effectiveness, and drug reformists at the time began to realize this and called for more uniformity in anti-drug laws because of the relative ease of travelling between states. One of the early state laws that was enacted that in many ways mimicked and further enhanced the Harrison Act’s provisions was the Boylan Anti-Drug Act of 1914 in New York State. The Boylan Act was aimed mainly at placing more controls on the dispensing of opiates and other drugs by physicians to their patients. In addition, Section 249a of the law contains one of the
nation's first "civil commitment" provisions, allowing a magistrate to commit an addict to a hospital for treatment (Belenko, 2000, p. 104). The following is an excerpt taken from Section 249a of the Boylan Act:

"The constant use by any person of any habit-forming drug, except under the direction and consent of a duly licensed physician, is hereby declared to be dangerous to the public health. Whenever a complaint shall be made to any magistrate that any person is addicted to the use of any habit-forming drug, without the consent of a duly licensed physician, such magistrate, after due notice and hearing, is satisfied that the complaint is founded and that the person is addicted to the use of a habit-forming drug, shall commit the person to a state, county or city hospital or institutions licensed under the state lunacy commission."

Through the 1920's, most state anti-drug laws provided that violations of the laws were misdemeanor offenses, with fines or relatively short jail or prison terms. According to the analysis of state laws contained in the 1928 review of the opium problem by Terry and Pellens, convictions under the anti-drug laws in only ten states at that time were deemed felonies (Belenko, 2000, p. 108). This is the reason that many drug reformers such as Harry Anslinger, Federal Bureau of Narcotics Commissioner, argued for uniform drug laws among states because some state laws were not adequate for controlling drug problems. In his 1953 book entitled The Traffic in Narcotics, Anslinger discussed the failures of states to uphold the provisions of the Harrison Act by not bearing the responsibility of investigating, detecting, and preventing the local illicit traffic conducted by drug peddlers. He also recognized the inability or lack of effort on the part of some states to provide institutional care and treatment of drug addicts within their respective jurisdictions.

Throughout the 1920's and 30's there were many discrepancies and problems that arose due to non-uniform and cohesive drug laws between the federal and state level. There were many gaps between federal and state law, which Anslinger felt that states could enact. For example, the Harrison Act did not directly prohibit self-administration
by a physician, and the federal government could not deprive a physician of the right to purchase narcotic drugs until the state had first deprived the physician of a license to practice their profession. It appears that while the laws were in place to deal with the drug problem, there was little being done to enforce those laws due to a breakdown between the federal government and certain states that had not taken on the burden of enforcement.

Marijuana Laws

Marijuana has consistently been a controversial drug of discussion, and its distribution and use has had an interesting policy history in the United States. During the nineteenth century, it was widely used for medicinal purposes, and it was the last major drug to become regulated by the federal government. Use of the drug spread in the 1920’s, and state and federal officials began to pass more stringent anti-marijuana laws because of a fear that its use was a major threat to the public health. Since the enactment of legislation regarding the use of marijuana, there has been a great deal of debate over the effects that this drug has on people. During the 1920’s and 1930’s, the drug was demonized as dangerous, and thirty years later in the 1960’s and 70’s, there was a greater acceptance of it due to an increase in use by the white middle class population. During this time period, there were many laws that were enacted decriminalizing possession of marijuana for personal use. Even today, the passage of medical marijuana laws in states such as California, Nevada, and Arizona has brought debate over the drug to the surface again about the relative dangers associated with it and its possible value to patients suffering from terminal cancer.

During the period of 1910 to 1920, marijuana began to emerge as a more popular drug, which caused concern among law enforcement and other government agencies. As noted by Belenko (2000), there are two circumstances that gave rise to the growing
attention towards marijuana during this time. The first was an influx of marijuana smuggling from Mexico and Cuba into southern states like Texas and Louisiana. The second was the passage of the Eighteenth Amendment, which prohibited the sale of alcohol, and the Volstead Act of 1920, which made it more difficult and expensive to obtain alcoholic beverages. In turn, marijuana provided a relatively inexpensive alternative, which served to increase its popularity. Between 1914 and 1931, twenty-nine states passed laws banning the nonmedical sale and use of marijuana (Belenko, 2000, p. 141; citing Bonnie & Whitebread, 1974).

During the period of 1915 and 1930, a large influx of Mexican immigrants and farm workers created increased attention to the use of marijuana, and it was feared by legislators that the immigrants would bring widespread use of the drug to America. It was during this fifteen year time period that most of the Western states passed laws banning the use or sale of marijuana, due to the public image of the Mexican immigrant smoking marijuana and committing crimes. This image was the driving force behind the passage of these laws (Belenko, 2000, p. 143; citing Himmelstein, 1983).

The Marijuana Tax Act of 1937

While many states had devoted much attention to the increase in marijuana use during the 1920’s, it was not until the mid-1930’s that the federal government began to consider marijuana a major problem. The Marijuana Tax Act was passed on August 2, 1937, and was the first federal regulation of the drug. The law was modeled after the 1914 Harrison Act, and required physicians and pharmacists who dispensed the drug to register with federal authorities and pay an annual tax or license fee. As with the Harrison Act, anyone who failed to register and pay the annual tax and fees was subject to criminal penalties.
The 1950's basically marked the end of a phase of American drug policy against marijuana. Marijuana policy developed primarily during the first half of the twentieth century from one of limited concern about the drug on the part of the federal government to a set of relatively punitive policies. During this time period, both federal and state laws treated marijuana similar to other drugs such as heroin and cocaine. However, during the 1960's, a greater tolerance for the drug and its use began to emerge, and new policies that were enacted provided a substantial reduction in penalties for possession and individual use.

**Drug Policy and Laws After World War II**

During the World War II era, attention was focused more on the war efforts than any other social issue, and for the most part, the drug problem and addiction was not a primary social concern among the general population, or the federal government for that matter. However, with the end of the war, government officials began to fear that the reopening of merchant shipping routes and international trade would spark drug smuggling, which remained largely under control from 1939 to 1945. Addiction among the returning soldiers was also a fear among officials at this time, and considerable media coverage began to develop about the smuggling of drugs into the United States, which often played up the role of communists and organized smuggling rings (Belenko, 2000, p. 186; citing New York Times, 1948).

During the post war era, there was also a rising concern with addiction and drug problems among the teenage population. Just as this issue was addressed in the 1980's, the media and policy makers gave considerable coverage to drug problems in schools and among America’s youth. Many national magazines and newspapers, such as the New York Times printed articles pointing to the “substantial rise” in narcotics addiction since the end of World War II based on reports and information coming from the Federal
Narcotics Bureau (Belenko, 2000; citing New York Times, April 11, 1950). Many drug reformers and policy makers called for enactment of enhanced penalties for selling drugs to minors in federal and state laws. Among them was Howard Whitman, who, in 1951, called for new distinctions to be made in existing laws between selling drugs to youth, and members of society who have been addicts for years (Belenko, 2000; citing Whitman, 1951).

With the concern over increase of drug smuggling into the United States by organized drug rings after the second World War, and the rise in the teenage addiction problem, the climate was right for new legislation to be enacted to combat these new problems in relation to narcotics. The Boggs Act of 1951 was the remedy to these problems among drug reformers, and it allowed for harsher penalties for drug traffickers and repeat offenders.

The Boggs Act of 1951

The Boggs Act was the first major piece of drug legislation in the post war era, and its enactment called for harsher penalties for drug trafficking and smuggling, and the selling of drugs to youth under the age of eighteen. This act allowed for longer prison sentences for repeat offenses, and disallowed a suspended sentence or probation for repeat offenders. The act also provided for the first time, mandatory minimum prison sentences for narcotics violations (Greenberg, 1999).

While many drug reformers thought that the new provisions set forth in the Boggs Act would help reduce the drug addiction problem, it became apparent to the Eisenhower Administration after several years that the drug problem was not going away. In 1954, Eisenhower appointed a special cabinet committee to examine the drug problem at that time, and to recommend new solutions to solving the problem. It was during this time that treatment and rehabilitation began to emerge as part of the solution to solving the
drug problem in the United States. However, heavier punishment, more enforcement officers, and better coordination between the federal and state levels were forefront in combating the drug problem (Belenko, 2000, p. 199).

The Narcotics Control Act of 1956

In addition to the Eisenhower committee, other legislative hearings were held to examine the escalating drug problem that was not remedied by the enactment of the Boggs Act. One of these hearings, under the chairmanship of Senator Price Daniel of Texas, the special Subcommittee on Improvements in the Federal Criminal Code began hearings on June 2, 1955 to examine the drug problem in numerous cities where drug addictions and trafficking were a major concern. The cities under examination were New York, Philadelphia, Chicago, San Francisco, Dallas, Los Angeles, and Detroit (Belenko, 2000, p. 202; citing King, 1972). Out of the Daniel hearings came the Narcotics Control Act of 1956, which increased maximum allowable penalties beyond those enacted in the 1951 Boggs Act. Maximum sentences were doubled for first and second time offenses, and penalties for importing drugs were also increased to a minimum of five years and a maximum of twenty years in prison. Another interesting aspect of this piece of legislation was that it provided for the first time a penalty of death for a drug offense. Under this Act, a person over the age of eighteen could be sentenced to death for selling heroin to a youth under the age of 18 (Greenberg, 1999, p. 188).

Drug Policy In The 1960’s and 70’s

The 1960’s marked a period where a number of shifts and new initiatives began to take place in regards to America’s drug policy. The trend toward increasing severity was temporarily diverted during the 1960’s, when there was more acceptance of drug treatment for addicts (Bickel & Degrandpre, 1996, p. 260; citing Alexander, Schweighofer, and Dawes, 1996). In addition, there was also a more obvious distinction
between the drug user and the drug seller, and a decriminalization of marijuana possession. Researchers have related this shift to a number of larger social issues such as the Vietnam War, the “hippie” movement protesting the war, a spread of drug use among members of the white middle class, and an overall acceptance and tolerance for drug use.

As presidents that had led the country before him, President Kennedy in 1962 called for a White House Conference on Drug Abuse to examine the aspects of the current drug problem. The committee called for tougher enforcement policies, but also an emphasis on the need to treat addicts as people with medical and social problems. The committee in its findings also called for an increase in attention to education and research. The findings of this committee helped to establish civil commitment laws in several states that allowed convicted addicts a choice between prison and treatment in a hospital setting for up to the length of the potential prison term (Greenberg, 1999, p. 190). The 1966 Narcotic Addict Rehabilitation Act helped to enhance these civil commitment laws, and set up a civil commitment system for federal offenders, both prior to and after sentencing.

While the 1970's under the Nixon Administration continued to promote rehabilitation and treatment to help decrease the drug problem, the shift towards greater enforcement efforts and classification of drugs began to come to the forefront of legislation (Bickel & Degrandpre, 1996, p. 260; citing Alexander, Schweighofer, and Dawes, 1996). For the first time since the Harrison Act of 1914, Congress consolidated the numerous existing federal laws, which are still intact today.

The 1970 Comprehensive Drug Abuse Prevention and Control Act

On October 27, 1970, Congress passed the comprehensive Drug Abuse and Prevention and Control Act, which replaced more than fifty pieces of drug legislation created since 1914 (Greenberg, 1999, p. 190). Title II of the Act, known as the Controlled
Substances Act, gave Congress the authority to regulate interstate commerce for drugs (Greenberg, 1999, p. 190). A key aspect of this act was its attempt to classify drugs into five schedules according to their potential for abuse and their recognized medical usefulness. Schedule I and II drugs are considered the highest potential for abuse, and in accordance, are associated with the harshest penalties for their sale, possession, and use. Table 1 is an excerpt taken from the Schedule of Controlled Substances regarding the Schedule of narcotic drugs.

In addition to this new form of classification, the Act also provided for new powers and authority to be delegated to law enforcement officials, including “no knock” laws which permitted narcotics agents to legally break into private premises without warning (Bickel & Degrandpre, 1996, p.260; citing Alexander, Schweighofer, and Dawes, 1996). Under Title III of the Act, for Schedule I and II drugs, a conviction is punished by up to five years in prison, and a fine of not more than $15,000, or both. In addition, penalties can be doubled for a second or subsequent offense. While all states are required to comply with the scheduling of drugs, they are permitted to impose their own penalties for violation of laws.

The 1970 Act was the last comprehensive federal legislation on drug control for the next sixteen years. While its provisions are punitive in nature, additional legislation in 1972 was enacted that furthered treatment and rehabilitation efforts under the Drug Abuse Office and Treatment Act of 1972. While law enforcement efforts continued, the 1970’s continued to see a greater acceptance and tolerance towards recreational drug use, especially marijuana. It would not be until the election of Ronald Reagan in 1980 that the United States began a renewed punitive era towards drug abuse and the escalated War on Drugs.
The Reagan Administration and the “New” War on Drugs

In the beginning of the 1980’s, a new conservative and less tolerant approach toward drug use began to take form after the election of Ronald Reagan to the Presidency. It was also during this era that the previously held position that use, possession, and sale of illegal drugs should be decriminalized or legalized began to decline also. The use of illegal drugs also declined during this time (Goode & Ben-Yehuda, 1994, p. 206).

With the emergence of this conservative approach, public opinion of the drug problem remained relatively low consistently throughout the early 1980’s due to the decline in the use and public tolerance for drugs. Although public concern had been building throughout the 1980’s, it was not until late 1985 and 1986 that the drug problem became a major public concern with the emergence of cocaine and the crack epidemic. Goode and Ben-Yehuda have suggested that “it is possible that in no other decade has the issue of drugs occupied such a huge and troubling space in the public consciousness. And it is possible that no specific drug has dominated center stage in this concern as crack cocaine did between 1986 and, roughly, late 1989 to early 1990” (Goode & Ben-Yehuda, 1994, p. 205).

Between 1985 and 1989, drug abuse among Americans became the dominant social issue in the United States, and the percentage of Americans who believed that drugs were the most serious problem facing the country rose steadily, from two to thirty-eight percent (Belenko, 2000, p. 306). Crack became the focus of political and media attention, and sensationalized stories began to surface about the dangers of the drug on America’s youth. Probably the most significant story to emerge that fueled public attention to the crack epidemic was the death of college basketball star Len Bias, who died shortly after experimenting with crack cocaine one time.
Table 1. Schedule of Controlled Substances

Schedule I
(a) The drug or other substance has a high potential for abuse.
(b) The drug or other substance has no currently accepted medical use in treatment in the United States.
(c) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Schedule II
(a) The drug or other substance has a high potential for abuse.
(b) The drug or other substance has a currently accepted medical use in treatment in the United States with severe restrictions.
(c) The drug or other substance may lead to severe psychological or physical dependence.

Schedule III
(a) The drug or other substance has a high potential for abuse less than the drugs or other substances listed in Schedules I and II.
(b) The drug or other substances has a currently accepted medical use in treatment in the United States.
(c) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule IV
(a) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III.
(b) The drug or other substance has a currently accepted medical use in treatment in the United States.
(c) Abuse of the drug or other substance may lead to limited physical or psychological dependence relative to the drugs or other substances listed in Schedule III.

Schedule V
(a) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV.
(b) The drug or other substance has a currently accepted medical use in treatment in the United States.
(c) Abuse of the drug or other substance may lead to limited physical or psychological dependence relative to drugs or other substances listed in Schedule IV.

The Anti-Drug Abuse Act of 1986

Public attention, media portrayal, and political focus led to the drafting and enactment of the Anti-Drug Abuse Act of 1986. The Bill was enacted on October 27, 1986, and its emphasis was on the use of punishment and social control to fight drug abuse (Belenko, 2000, p. 307). This Act was the first comprehensive federal drug legislation since 1970, and it established increased prison sentences for drug sale and possession, eliminated probation or parole for certain drug offenders, increased fines, and allowed for forfeiture of assets (Belenko, 2000, p. 307). The vast amount of federal funding went to law enforcement efforts, prisons and corrections, interdiction, and other
supply reduction efforts such as crop eradication. In all, the 1986 Act authorized $1.7 billion in new money to fight drug abuse. $231 million (approximately 14%) was allocated for treatment, education, and prevention efforts.

The Anti-Drug Abuse Act of 1988

The 1988 Anti-Drug Abuse Act is the last piece of consolidated federal drug legislation currently enacted. The issue of drugs was once again brought to the forefront of public concern during the presidential election campaign of 1988, and the result was the passage of this omnibus drug bill on October 22, 1988. The Act established increased penalties, pertaining in particular to major drug trafficking rings. The Act also includes a provision for the death penalty for murders committed in relation to drug sales and profit. In addition, this Act provides a section that pertains explicitly to increased federal penalties for “serious” crack offenses. Section 6371 states that a first time offender convicted of possessing as little as five grams of a substance containing cocaine base is subject to imprisonment for five to twenty years. Second or third time offenders are subject to similar penalties for possessing as little as three grams. Under this Act, the White House Office of National Drug Control Policy was established, which bears the responsibility to submit to Congress an Annual National Drug Control Strategy. This annual report is a blue-print for the nation’s short and long-term goals and strategies for controlling and reducing illicit drug use (Belenko, 2000, p. 316). As with the 1986 Act, this Act continues to provide the majority of funding for enforcement and punishment, and a new emphasis placed on user accountability with the introduction of civil sanctions for possession and casual drug use (Belenko, 2000, p. 316).

Drug Enforcement Trends of the 1990's and Today

By the early 1990’s, many policy makers, law enforcement agencies, and prison officials were beginning to realize and see the effects that these harsher laws were having
on the overall prison population. Mandatory minimum sentencing for drug offenders has increased prison populations, and forced federal and state governments to build more prisons to house criminals.

The prison population in the United States is at an all time high, with no signs of slowing down. Out of an estimated two million prisoners in the state and federal prison systems, more than one-third of all prisoners are currently incarcerated for a drug offense (Office of National Drug Control Policy, 2000). From simple possession offenses, to high-level drug traffickers. Unfortunately, due to the nature of our current policy and laws in this country, most of these inmates are not the drug kingpins and traffickers that belong in prison. Federal and state laws have had the best of intentions to put the high-level offense criminals behind bars, but thus far, the clearance rate in comparison to those guilty of lesser offenses is at a disproportionate level. The majority of drug offenders are serving time for possession, minor drug sale offenses, and committing property crimes to support their drug habit.

Even though the overall crime problem has decreased within the last ten years, the number of inmates has risen at a steady rate, and they are primarily drug offenders. Violent crime has decreased since the beginning of the 1990's, but drug offenses have increased sevenfold since 1980. In the United States, there are six times more people behind bars than in all twelve countries that make up the European Union combined (Gray, 2001, p. 29 citing Schiraldi and Ziedenberg). It is important to keep in mind that the European Union also has one hundred million more citizens than the United States. There are a higher number of people in prison for drug offenses in the United States (about 400,000) than are incarcerated in England, France, Germany, and Japan for all crimes combined. In fact, the state of California alone has more people incarcerated than France, Great Britain, Germany, Japan, Singapore, and the Netherlands combined, even
though California has only about one-tenth of their combined populations. Looking one step further, the United States, with less than five percent of the world's population, houses one-quarter (25%) of the world's prisoners (Gray, 2001, p. 30).

The Effects of Federal Drug Policy on State-Level Legislation

Now that an explanation has been given of the current trends in drug enforcement and how the United States has reached the point it has regarding the drug problem, it is important to examine how state level courts process drug offenders and the penalties associated with felony drug related charges. A review of all major federal drug legislation and policy since the early part of the twentieth century was necessary to introduce the second part of this research to determine if and how legislation influences the state level of enforcement in regards to drug offenses. While the federal government allows states to govern themselves and draft their own legislation, it is inevitable that a significant portion of state legislation is passed and influenced due to policy that is designed on a national level.

Over the past century, the federal government has attempted to contain illicit drug use in a wide variety of ways, ranging from a punitive or deterrent approach with a focus on enforcing criminal law, to a public health approach, focusing on treatment and prevention (ImpacTeen Illicit Drug Team, 2002, p. 2). By far, the most dominant policy approach to controlling drug use at the national level has been to utilize the deterrent effect of law and the incapacitative effect of penalties to control illicit drug possession, use, sale, distribution, and manufacturing (ImpacTeen Illicit Drug Team, 2002). Some researchers have noted that this emphasis on law and enforcement has resulted in a virtual saturation of local, state, and federal correctional facilities by drug users (ImpacTeen Illicit Drug Team, 2002, p. 2; citing Beck & Mumola, 1999). Overall, state governments
and courts carry the heaviest burden of cases, and one possible reason for the level of
variation that exists between state drug policies is the enormous costs that illicit drug use
poses to states. According to a recent study conducted by the National Center on
Addiction and Substance Abuse (CASA), state governments spent $1.1 billion in 1998 to
deal with consequences associated with illicit drug use alone. Another $63.6 billion was
spent on consequences attributed to the joint consumption of illicit and licit substances
(ImpacTeen Illicit Drug Team, 2002; citing CASA, 2001).

With its emphasis on enforcement, the national drug policy has led to significant
increases in drug arrests within states, and a subsequent increase in state court drug
caseloads (Ostrom and Kauder, 1999). The criminal justice costs associated with these
activities alone totaled more than $30 billion (approximately 4.9% of state budgets) for
states in 1998 (ImpacTeen Illicit Drug Team, 2002; citing CASA, 2001). Of the
estimated two million prisoners in the United States, more than 1.8 million are in state
and local institutions (CASA, 2001).

According to the Office of National Drug Control Policy, the federal government
spent approximately $16 billion in 1998 for prevention, treatment, and law enforcement
efforts related to illicit drugs. Many other billions were also spent to cope with the
consequences through programs such as child welfare, corrections, special education,
Indian Health, Medicare and Medicaid. Significant portions of these funds are channeled
through the states (CASA, 2001).

States spent $29.8 billion in 1998 for adult corrections including incarceration,
probation, and parole. 81% of this amount ($24.1 billion) was spent on substance-
involved offenders. Of the $24.1 billion, $21.4 billion went to run and build prisons to
house substance-involved offenders, $1.1 billion for parole, and $695 million for
probation for substance-involved offenders. An additional $899 million was spent on state aid to localities for substance-involved offenders (CASA, 2001).

The Department of Justice has adopted a two-prong approach to aid state and local communities. First, it provides funding and technical assistance to law enforcement agencies to develop priorities, implement strategies, and supply leadership. Second, it funds initiatives by promoting testing and treatment for offenders, and helping communities offer employment opportunities and prevent drug abuse. There are virtually billions of dollars available to state and local governments provided by the federal government that contribute to funds for hiring police and developing multi-jurisdictional task forces. Major national coordination programs include the High Intensity Drug Trafficking Area (HIDTA), Organized Crime Drug Enforcement Task Force (OCDETF), coordination efforts to enhance asset forfeiture, development of equitable sentencing policies, and the National Alliance for Model State Drug Laws to coordinate legislation initiatives at the state level (National Drug Control Strategy, 2002). Thus, federal legislation and the national drug policy have greatly affected state court processing over the last century, and in particular, the last two decades. This has become evident not only in the substantial increases in case loads for drug offenses, but also evident in the increases in state expenditures to enforce the national drug policy of deterrence, house prisoners that violate drug laws, and the treatment of addicts that abuse illicit drugs.
CHAPTER 3

RESEARCH & METHODOLOGY

Objectives of the Study

With a thorough review of major federal drug legislation completed, the direction of this research shifted to the state level drug laws and how felony drug offenders are processed from the time of arrest until they are actually sentenced. There were two major objectives involving the data collection and analysis section of this study. The first objective was to research current revised statutory penalties for selected states that pertained to felony drug charges, ranging from possession offenses to the illicit sale and trafficking of narcotics. The second objective was to determine, in selected states, the level of rigor in which prosecutions for violations of these laws actually occur after an offender has been arrested, charged with a felony drug crime, and finally sentenced.

The most current revised statutes were researched for the states selected to determine the variation in penalties for felony drug offenses across each state. After this process, I located an ongoing study that originated in year 2000, which is updated annually, that provided data on minimum and maximum prison terms for illicit possession and selling of narcotics for all fifty states. This study, “Illicit Drug Policies: Selected Laws from the Fifty States,” includes detailed information on four specific drugs, all of which are listed in Schedule I or II of the Uniform Controlled Substances
Act, and thus, have the harshest of penalties associated with felonious possession and sales. The four drugs within this study are cocaine (no distinction made between powder and crack), marijuana, methamphetamine, and Ecstasy (MDMA). These four drugs and the penalties associated with their possession and illicit sale, are presented in tabular form.

Rationale For Selection of States

The states that were selected for this research and analysis were Arizona, Florida, Illinois, Nevada, and New York. These states were selected in order to obtain a clear level of diversity throughout the United States based on several factors. The first, being region of the country that each state is in. While Nevada and Arizona are technically considered Western states, I thought it was important to provide data on the state of Nevada because it is the state in which this research was conducted. Second, general court procedures used in different parts of the country. Third, variation in levels of drug trafficking and drug use that occurs within specific states. Finally, drug of choice and commonality among offenders in regards to drug use and sales within each different state. A thorough review of each states' revised statutes regarding felony drug laws was conducted, and the annually updated study conducted by the ImpacTeen Illicit Drug Team was used to support the findings for the penalties written in the statutes.

Sources of Data

Arrest data was obtained from the Federal Bureau of Investigation’s Uniform Crime Reports, and provided information on the number of adults arrested from 1994 to 1998 for four of the five selected states. The only exceptions were the state of Illinois, which had no arrest information available, Nevada, which had no information available.
for 1997, and Florida, which had arrest data for years 1994 and 1995 only. According to the "notes" section of this data set, arrest information was only provided when the coverage indicator for all reporting jurisdictions within each state was above 90%. In the instances of Illinois, Nevada, and Florida, it is assumed that the arrest information was not provided because the coverage indicators were below 90%. All data analysis for this study used adult offender data due to the fact that if juveniles were included in further analysis, a court order would be required for the vast majority of information that is available for juvenile offender processing. According to this data sets' dictionary, a drug abuse violation is defined as:

"State and/or local offenses relating to the unlawful possession, sale, use, growing, and manufacturing of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics-manufactured narcotics that can cause true addiction (demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, benzedrine)" (Easy Access to FBI Arrest Statistics).

A felony case processing data set was used to examine the manner in which felony offenders are processed after arrest, and the disposition of felony drug cases for the year 1996. This data set came from the Bureau of Justice Statistics, and provided detailed information on state court processing statistics for felony defendants in large urban counties. The data set, titled "State Court Processing Statistics, 1990, 1992, 1994, and 1996: Felony Defendants in Large Urban Counties," tracks felony cases filed in May until their final disposition or until one year has elapsed from the date of filing. This data collection presents data on felony cases filed in approximately forty of the nation's seventy-five most populous counties. These seventy-five counties account for more than one-third of the U.S. population and approximately half of all reported crimes (Bureau of Justice Statistics. 1996). Unfortunately, the state of Nevada is not listed in this data set because this state does not have a population large enough for reporting purposes. The
last reported year for felony case filings was 1996, and was used for this analysis. The
data available for this analysis is county level data based on sampling within large urban
counties. While Nevada was excluded from this part of the analysis, it does reappear in
the analysis of prison sentences.

The variables that were chosen from the “State Court Processing Statistics” data
set were done so in order to show the pattern in which felons are processed after an arrest
has been made. The first variable selected displayed the disposition of cases within the
selected states, and the percentage of cases that were either dismissed by the court,
acquittal by trial, a guilty plea on the part of the defendant, or a guilty verdict after a trial.
These variables were analyzed through a crosstabulation analysis using SPSS (Statistical
Package for the Social Sciences). Once the data on the percentages of those cases that
were dismissed or acquitted were accounted for, variable information on cases that
received a prison or jail sentence versus a non-incarcerative sentence (probation, fine,
etc.) were further analyzed through crosstabulation analysis conducted through SPSS.
Because this study focuses on the extent of statutory penalties, primarily incarceration
rates, cases in which felons were dismissed or acquitted were excluded from further
analysis after it was determined the courts disposed of cases in those particular manners.

To get an overview of the scope of incarcerative punishment within this sample,
another data set that was also produced by Bureau of Justice Statistics was used to
examine average prison sentences for felony drug violations in relation to other felonies
across the selected states. In addition, the average amounts of the total time served for
possession and trafficking were compared to other serious felonies as well. Essentially,
the means of each state in the sample were compared for each specific offense, and the
means of the total time served as a percentage of the maximum sentence for the specific
offense. Comparison of the means (averages) between these two variables across selected states was also conducted using SPSS.

The data set used was titled "National Corrections Reporting Program, 1998." The NCRP is sponsored by the Bureau of Justice Statistics, U.S. Department of Justice, and the United States Bureau of the Census acts as the data collection agent. The National Corrections Reporting Program for 1998 is a calendar year report, covering the dates January 1, 1998 through December 31, 1998. Thirty-eight of fifty states reported data for this particular year. The data from this source refer only to those prisoners admitted to prison, released from prison, or released from parole (NCRP, 1998).

There are three parts in the National Corrections Reporting Program that consist of ninety-nine different variables. For this analysis, only three variables were used that came from the first part of the data set that pertained to prison admissions. The first variable used was the jurisdiction in which prisoners were admitted to after sentencing (the state variable). The second variable used was the longest maximum sentence for the most serious offense (i.e. trafficking, possession, violent). Finally, the third variable used was the percentage of the sentence that prisoners actually served of the maximum sentence for the most serious offense.

The first part of this analysis was done in order to show how much time on the average that a defendant convicted of either trafficking or possession would be sentenced to prison in relation to other serious felonies within selected states. The second part of this analysis was done to show the percentage of the time that was actually served when the most serious charge was trafficking or possession in relation to the other serious felonies listed. In this part of the analysis, Arizona was excluded because only one case was listed for the state at the time this report was produced. The case that was listed for
Arizona was for a violent felony, and would be considered an outlier within the data because it had a sentence of 600 months.

Limitations of the Data

Several limitations exist with the data that were used for this study, and could possibly be corrected if future research is conducted on this particular topic. The data that were used for analysis on case disposition and sentencing was from a different year than the data that was presented on prison admissions and length of sentencing. While both data sets were produced from Bureau of Justice Statistics, it is almost certain that there are some discrepancies in the number of offenders that were processed in 1996, and those that were admitted to prisons or jails in 1998. While raw numbers may vary somewhat, it was concluded that after researching arrest data on four of these five states that arrest rates remained relatively stable over a five-year period from 1994 to 1998. Admittedly, there is variation in arrest rates across years also. However, given the existing level of backlog that has existed in state trial courts over the last decade, it was determined that the number of felony cases in those courts would be relatively similar over a two-year period. The reason for this is because state trial courts do not have the resources to cope with even heavier caseloads. The sheer volume in cases is a challenge for court managers, even if most of the cases do not go to trial.

Another limitation of this data is that the most current revised statutory penalties were used to examine the level of variation in drug laws within the sample. As a result, there may have been some discrepancies in the statutory penalties within these states for year 2000 and the years in which the data on felon information was provided. Most, if not all states update their revised statutes every year, and the statutes from 2000 were the only set of penalties that were available for comparison. If future research were to be
conducted in this area, analysis results may be more consistent if the data on statutory penalties, case disposition and sentencing, and prison admissions were all from one or two consecutive years. For example, if the researcher used statutory penalties and data on criminal caseloads from year 2000, and then used prison admission and length of sentence data from year 2001. While this type of analysis might be more consistent, it remains to be seen if data will be made available for this type of analysis.

Finally, some of the variables that were chosen from these two data sets pertained to felons that were charged and sentenced for drug offenses, only when the most serious charge was trafficking or possession. These variables, such as the data on average sentence lengths and percentages of those sentences served, were coded in a manner that pertained specifically to the most serious sentence. The variables did not include other offenses that felons could have possibly been charged with and served time in prison or jail for in addition to their most serious offense. However, because this study focused specifically on drug offenses, the data was best presented in this manner because each felons' most serious charge was specified and the percentages on those crimes in particular were exclusive from any other possible "stacked" charges.
RESEARCH FINDINGS

This chapter provides the findings from the sample of selected states. The analysis includes information presented in tabular form, and demonstrates the variation in statutory penalties between states, and the results from the statistical analysis of state caseloads and the processing of felony drug offenders. These findings also present data that indicates the average length of time a felon will actually serve once convicted for a felony drug violation for both trafficking and all other drug violations. Essentially, felonious possession and/or use of a controlled substance. The findings also include a table that will demonstrate the average percentage of a maximum sentence that felony drug offenders actually serve once they have been sent to prison or jail.

The State Laws and an Explanation of Revised Statutes

The following tables (2 through 11) interpret the minimum and maximum extent to which an individual can be prosecuted for violation of the law. The tables indicate only the minimum and maximum penalties for possession and illicit sales and trafficking, and do not include distinctions or requirements needed between amounts of narcotics that an individual possesses or is found to be selling or trafficking at the time of arrest. The tables are presented in this manner because of the complexity involved in deciphering the amount of each particular substance that separate one set of penalties from another. However, the data set from which this information was obtained does provide information on quantity triggers that are used to identify the differentiation in penalties.
associated with a particular offense and the next highest or lowest penalty category (see “Note” on bottom of each table). For the purposes of this research, the minimum and maximum penalties for both possession and illicit sales are relevant. Tables 2 through 6 list the penalties associated with felony narcotics possession, without the intent to sell or distribute for the five selected states.

Table 2. Felony Possession Penalties in Arizona

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>Not Specified</td>
<td>2.5 Years</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Not Specified</td>
<td>1.5 to 2.5 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>Not Specified</td>
<td>2.5 Years</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Not Specified</td>
<td>2.5 Years</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: 3 quantity triggers exist for marijuana only. (Any amount, 907.18 grams, or 1,814.37 grams) Amounts converted from pounds.
**Table 3. Felony Possession Penalties in Florida**

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>1 to 7 Years (M)</td>
<td>5 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>1 to 3 Years (M)</td>
<td>1 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>1 to 7 Years (M)</td>
<td>5 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Not Specified</td>
<td>5 to 30 Years</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: (M) indicates a mandatory minimum prison sentence if the quantity trigger exceeds specific amounts.

5 quantity triggers for cocaine. 3 specified (Any amount, 28.0 grams, 200 grams). 3 year mandatory minimum at 28 grams or more. 7 year mandatory minimum at 200 grams or more.

5 quantity triggers for marijuana. 3 specified (Any amount, 20.0 grams, 11,339.80 grams). 3 year mandatory minimum at 11,339.80 grams or more.

4 quantity triggers for methamphetamine. 3 specified (Any amount, 14.0 grams, 28.0 grams). 3 year mandatory minimum at 14 grams or more. 7 year mandatory minimum at 28 grams or more.

2 quantity triggers for Ecstasy (MDMA). (Any amount, 10.0 grams). 10.0 grams or more is punishable to maximum penalty.

**Table 4. Felony Possession Penalties in Illinois**

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>1 to 6 Years</td>
<td>3 to 30 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Not Specified</td>
<td>0.08 to 1 Year</td>
<td>Yes</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>1 to 6 Years</td>
<td>3 to 30 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>1 Year</td>
<td>3 Years</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note: 5 quantity triggers for cocaine. 3 specified (Any amount, 15 grams, 100 grams).

5 quantity triggers for marijuana. 3 specified (Any amount, 2.51 grams, 10.01 grams).

5 quantity triggers for methamphetamine. 3 specified (Any amount, 15.0 grams, 100 grams).

Any amount of Ecstasy (MDMA) can range from minimum to maximum sentence.
Table 5. Felony Possession Penalties in Nevada

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>1 to 2 Years</td>
<td>4 to 15 Years</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>1 to 2 Years</td>
<td>4 to 10 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>1 to 2 Years</td>
<td>4 to 10 Years</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>1 to 2 Years</td>
<td>4 to 15 Years</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: 4 quantity triggers for each specified drug. 3 specified for each.
Cocaine: Any amount, 4 grams, 14 grams.
Marijuana: Any amount, 45,329.2 grams, 907,184.0 grams.
Methamphetamine: Any amount, 28 grams, 200 grams.
Ecstasy (MDMA): Any amount, 4 grams, 14 grams.

Table 6. Felony Possession Penalties in New York

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>Not Specified</td>
<td>1 to 15 Years</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Not Specified</td>
<td>Up to 1 Year</td>
<td>Yes</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>Up to 3 Years</td>
<td>1 Year to Life</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Not Specified</td>
<td>1 to 25 Years</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: 5 quantity triggers for cocaine. 3 specified (Any amount, 0.5 grams, 3.54 grams).
5 quantity triggers for marijuana. 3 specified (Any amount, 25 grams, 56.7 grams).
3 quantity triggers for methamphetamine. 3 specified (Any amount, 14.18 grams, 56.70 grams).
4 quantity triggers for Ecstasy (MDMA). 3 specified (Any amount, 1 gram, 5 grams).

Looking at these tables and their explanations, it is obvious to see that there are rather large disparities in the statutory penalties between states and the penalties that are imposed to defendants for felony drug possession. Of these five states, Florida and New York have the most punitive laws in place for felony possession, while Arizona and
Nevada have the least punitive in terms of prison sentences. What is also of interest is the disparities between states and the type of specific drug that is in question. For example, in Arizona, the maximum sentence for felony possession of methamphetamine is 2.5 years in prison, whereas the state of New York has a possible maximum sentence of life in prison for possession of the same drug. Looking at the states of Nevada and New York, the maximum sentence for marijuana possession ranges from 4 to 10 years in prison in Nevada, and the same offense in New York has a maximum sentence of up to one year. Under Florida law, felony possession of cocaine and methamphetamine carry mandatory minimum prison sentences of either 3 or 7 years depending on amount an individual possesses, whereas Illinois only has a range of 1 to 6 years based on specific amount possessed, with no mandatory minimum sentence clause.

In the course of constructing these tables, it was discovered that all of these states that were sampled for this study do not have separate penalties that differentiate between felony possession charges for powder cocaine and crack cocaine. Numerous studies have been conducted that point to the sentencing disparities at the federal level in regards to the extent of prosecution and sentencing for felony crack offenses as opposed to cocaine in powder form. Crack cocaine is considered to be significantly more harmful to the individual and the community, and thus, Congress enacted legislation mandating five year prison terms for the possession or sale of five grams of crack cocaine (ImpacTeen Illicit Drug Team:2002). This same legislation mandated the same penalty for the possession of five hundred grams of powder cocaine, defining the mandatory minimum sentencing disparity of crack to powder cocaine at 100:1 (ImpacTeen Illicit Drug Team:2002;citing U.S. Sentencing Commission:1997). Interestingly, this obvious disparity does not appear as frequently in state laws. However, even though the vast majority of states treat powder and crack cocaine offenses the same in legal statutes, it
does not necessarily mean that judges treat these offenses the same in the sentencing of offenders.

Penalties Associated with Illicit Sales and Trafficking

Within this research, the penalties in place with illicit drug sales and drug trafficking were also researched for these five states. The two separate charges were combined for this analysis because of the complexity involved in making distinctions between the two in terms of amounts of narcotics required to be considered a "seller" and a "trafficker." Within this study, the two terms are interchangeable because both crimes involve selling narcotics for monetary gain. Tables 7 through 11 show the possible penalties associated with illicit drug sales and drug trafficking for the states selected in this study.

Table 7. Arizona Trafficking Penalties

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>Not Specified</td>
<td>5 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Not Specified</td>
<td>3.5 to 5 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>Not Specified</td>
<td>5 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Not Specified</td>
<td>5 Years</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note: Arizona has multiple quantity triggers for marijuana only. All other drugs are subject to maximum penalties regardless of quantity trigger. Marijuana quantity trigger is 907.18 grams.
Table 8. Florida Trafficking Penalties

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>1 to 7 Years (M)</td>
<td>15 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>1 to 7 Years (M)</td>
<td>5 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>1 to 7 Years (M)</td>
<td>5 to 30 Years</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Not Specified</td>
<td>15 to 30 Years</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: (M) indicates a mandatory minimum prison sentence after quantity trigger exceeds specific amounts. 5 quantity triggers for cocaine. 3 specified (Any amount, 28 grams, 200 grams). 3 year mandatory minimum for 28 grams or more. 7 year mandatory minimum for 200 grams or more. 4 quantity triggers for marijuana. 3 specified (Any amount, 11,339.80 grams, 907,184.0). 3 year mandatory minimum for second quantity trigger. 7 year minimum for third quantity trigger. 4 quantity triggers for methamphetamine. 3 specified (Any amount, 14 grams, 28 grams). 3 year mandatory minimum for second quantity trigger. 7 year minimum for third quantity trigger. 2 quantity triggers for Ecstasy (MDMA). (Any amount, 10 grams). No mandatory minimum specified.

Table 9. Illinois Trafficking Penalties

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>7 to 15 Years</td>
<td>14 to 30 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Up to 1 Year</td>
<td>0.5 to 3 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>3 to 6 Years</td>
<td>7 to 30 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>2 to 6 Years</td>
<td>5 to 30 Years</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note: 5 quantity triggers for cocaine. 3 specified (Any amount, 1.0 grams, 15.0 grams). 5 quantity triggers for marijuana. 3 specified (Any amount, 2.51 grams, 10.01 grams). 5 quantity triggers for methamphetamine. 3 specified (Any amount, 5 grams, 15 grams). 3 quantity triggers for Ecstasy (MDMA). (Any amount, 50 grams, 200 grams).

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Table 10. Nevada Trafficking Penalties

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>1 to 2 Years</td>
<td>6 to 15 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Marijuana</td>
<td>1 to 2 Years</td>
<td>6 to 10 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>1 to 2 Years</td>
<td>6 to 10 Years</td>
<td>Yes</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>1 to 2 Years</td>
<td>6 to 15 Years</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note: 4 quantity triggers for all specified drugs.
Cocaine: (Any amount, 4 grams, 14 grams).
Marijuana: (Any amount, 45,329.2 grams, 907,184.0 grams).
Methamphetamine: (Any amount, 28 grams, 200 grams).
Ecstasy (MDMA): (Any amount, 4 grams, 14 grams).

Table 11. New York Trafficking Penalties

<table>
<thead>
<tr>
<th>Drug</th>
<th>Minimum Sentence</th>
<th>Maximum Sentence</th>
<th>Increased Penalties For Subsequent Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>Up to 15 Years</td>
<td>25 Years to Life</td>
<td>No</td>
</tr>
<tr>
<td>Marijuana</td>
<td>Not Specified</td>
<td>1 to 7 Years</td>
<td>No</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>Up to 3 Years</td>
<td>7 Years to Life</td>
<td>No</td>
</tr>
<tr>
<td>Ecstasy (MDMA)</td>
<td>Up to 3 Years</td>
<td>7 Years to Life</td>
<td>No</td>
</tr>
</tbody>
</table>

Note: 3 quantity triggers for cocaine. (Any amount, 14.18 grams, 56.70 grams).
4 quantity triggers for cocaine. 3 specified (Any amount, 25 grams, 113.40 grams).
3 quantity triggers for methamphetamine. (Any amount, 3.54 grams, 14.18 grams).
3 quantity triggers for Ecstasy (MDMA). (Any amount, 1.0 grams, 5 grams).

As it was with felony possession penalties, Florida and New York have the most punitive laws, while Arizona and Nevada have the least in terms of prison sentences.

Illinois penalties lie in the middle of the five states in terms of prison sentences, even
though some of the penalties carry thirty-year maximums. Florida penalties contain a mandatory minimum sentence for three out of four drugs after an offender is found to be trafficking in specific amounts. The only exception, which is not specified, is Ecstasy (MDMA).

In terms of illicit sales and trafficking, none of these five states differentiate between powder and crack cocaine in terms of prison sentences based on statutory penalties. With the exception of Florida and New York, there are also increased penalties for subsequent violations. It is possible that the reason Florida and New York do not have increased penalties for subsequent violations is because of the length of maximum sentences within these states.

It is also interesting to note that in the state of Illinois, there is an overlap in prison terms between the minimum and maximum penalties for cocaine, marijuana, and Ecstasy (MDMA). The minimum sentence for cocaine trafficking in Illinois is seven to fifteen years, while the maximum term is fourteen to thirty years. For marijuana trafficking, an offender can receive a sentence of up to one year, but a maximum sentence can range from a half year to three years. Finally, for trafficking in MDMA, the minimum sentence is two to six years, but the maximum ranges from five to thirty years.

Arrest Rates For Drug Violations Across States

Throughout the course of this research, I was able to find a data source that had information available on arrest rates for drug abuse violations within each state that I selected for my analysis. This data set was created directly from information provided by the FBI Uniform Crime Reports. With several exceptions, information for drug abuse violations that adults over the age of 18 were arrested for was given for years 1994 through 1998 on each state selected for analysis. Table 12 shows the distribution of the rate of arrests per 100,000 made in each selected state for drug abuse violations. While
the data analysis of this study is concerned primarily with case processing in regards to sentencing, it is important to establish the extent of arrests made within the sample. This will demonstrate how many cases that courts within these states are required to dispose of once an arrest has been made.

### Number of Arrests per 100,000 for Drug Violations Committed By Adults Over Age 18 By Year and State

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>612</td>
<td>667</td>
<td>653</td>
<td>705</td>
<td>718</td>
</tr>
<tr>
<td>Florida</td>
<td>688</td>
<td>651</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Nevada</td>
<td>841</td>
<td>779</td>
<td>650</td>
<td>N/A</td>
<td>742</td>
</tr>
<tr>
<td>New York</td>
<td>902</td>
<td>1,047</td>
<td>1,084</td>
<td>1,128</td>
<td>1,256</td>
</tr>
</tbody>
</table>

**Note:** N/A indicates that data was not available for the specific year.

### Drug Offense Conviction Percentages Compared to Other Felonies Across the Sample

Table 13 demonstrates the percentage of convictions for felony drug offenses in comparison to other serious felonies. This table shows the most serious conviction charge that each felon was charged with from the sample created by Bureau of Justice Statistics. The data shown on table 13 indicate that of all serious felony convictions, drug offenses (trafficking and other drug combined) made up 33.6% of all convictions when it was the most serious conviction charge that a felon faced.
Table 13. Percentage of felons’ most serious conviction charge by offense. (1996)

<table>
<thead>
<tr>
<th>Charge</th>
<th># of Cases</th>
<th>% of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>545</td>
<td>16.1%</td>
</tr>
<tr>
<td>Other Drug</td>
<td>594</td>
<td>17.5%</td>
</tr>
<tr>
<td>Violent Offense</td>
<td>351</td>
<td>10.3%</td>
</tr>
<tr>
<td>Property Offense</td>
<td>711</td>
<td>20.9%</td>
</tr>
<tr>
<td>Other Felony</td>
<td>259</td>
<td>7.6%</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>935</td>
<td>27.5%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3,395</td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Note: Includes all selected states except Nevada.

Even if the two separate charges are examined individually, property offense is the only other felony that has a greater percentage value than the two individual felony drug charges. Misdemeanors were included in this table because of the fact that many criminal cases are pleaded down from a felony to a misdemeanor.

Case Disposition of Felonies By State and Type of Offense

The previous table showed the most serious offense that felons were actually charged with among the states that were selected for this analysis. In order to properly demonstrate the variation in the processing of felony defendants for drug offenses, the next logical part of the analysis is to discuss how drug offense cases were disposed of by the courts in relation to other serious felonies. Tables 14 through 17 show the number of and percentages of cases that were disposed of in state courts included in this sample. There are four possibilities in which a felony defendant could have been processed through the court system. The case could have been dismissed, defendants could have
been acquitted for the offense after a trial, defendants could have entered a plea of guilty, or could have been found guilty in a trial. There are five categories of felony offenses, two of which are specifically drug-related. Violent offenses, property offenses, and a category of "other felonies" are shown for comparison to the drug trafficking and "other drug" cases.


<table>
<thead>
<tr>
<th>Charge</th>
<th>Dismissal</th>
<th>Acquittal</th>
<th>Guilty-Plea</th>
<th>Guilty-Trial</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>35%</td>
<td>0</td>
<td>63.3%</td>
<td>1.7%</td>
<td>120</td>
</tr>
<tr>
<td>Other Drug</td>
<td>52.2%</td>
<td>0</td>
<td>47%</td>
<td>0.7%</td>
<td>268</td>
</tr>
<tr>
<td>Violent</td>
<td>49.8%</td>
<td>2.6%</td>
<td>44.1%</td>
<td>3.5%</td>
<td>229</td>
</tr>
<tr>
<td>Property</td>
<td>41.8%</td>
<td>0</td>
<td>56.9%</td>
<td>1.3%</td>
<td>304</td>
</tr>
<tr>
<td>Other Felony</td>
<td>49.5%</td>
<td>1%</td>
<td>44.8%</td>
<td>4.8%</td>
<td>105</td>
</tr>
</tbody>
</table>

Table 15. Case Disposition of Felonies: Florida (1996)

<table>
<thead>
<tr>
<th>Charge</th>
<th>Dismissal</th>
<th>Acquittal</th>
<th>Guilty-Plea</th>
<th>Guilty-Trial</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>11.3%</td>
<td>1.3%</td>
<td>72.8%</td>
<td>14.6%</td>
<td>151</td>
</tr>
<tr>
<td>Other Drug</td>
<td>15.1%</td>
<td>1.6%</td>
<td>77.5%</td>
<td>5.8%</td>
<td>311</td>
</tr>
<tr>
<td>Violent</td>
<td>38%</td>
<td>5.3%</td>
<td>46%</td>
<td>11.7%</td>
<td>342</td>
</tr>
<tr>
<td>Property</td>
<td>27%</td>
<td>3.2%</td>
<td>62.6%</td>
<td>7.3%</td>
<td>441</td>
</tr>
<tr>
<td>Other Felony</td>
<td>32.9%</td>
<td>2.4%</td>
<td>56.5%</td>
<td>8.2%</td>
<td>85</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Charge</th>
<th>Dismissal</th>
<th>Acquittal</th>
<th>Guilty-Plea</th>
<th>Guilty-Trial</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>9.9%</td>
<td>5.5%</td>
<td>81.3%</td>
<td>3.3%</td>
<td>91</td>
</tr>
<tr>
<td>Other Drug</td>
<td>51.5%</td>
<td>2.4%</td>
<td>42.4%</td>
<td>3.7%</td>
<td>297</td>
</tr>
<tr>
<td>Violent</td>
<td>27.5%</td>
<td>5%</td>
<td>57.5%</td>
<td>10%</td>
<td>40</td>
</tr>
<tr>
<td>Property</td>
<td>12.5%</td>
<td>2.1%</td>
<td>79.7%</td>
<td>5.7%</td>
<td>192</td>
</tr>
<tr>
<td>Other Felony</td>
<td>18.6%</td>
<td>5.1%</td>
<td>72.9%</td>
<td>3.4%</td>
<td>59</td>
</tr>
</tbody>
</table>

### Table 17. Case Disposition of Felonies: New York (1996)

<table>
<thead>
<tr>
<th>Charge</th>
<th>Dismissal</th>
<th>Acquittal</th>
<th>Guilty-Plea</th>
<th>Guilty-Trial</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking</td>
<td>25.6%</td>
<td>0</td>
<td>73.5%</td>
<td>0.9%</td>
<td>555</td>
</tr>
<tr>
<td>Other Drug</td>
<td>23.5%</td>
<td>0</td>
<td>76%</td>
<td>0.5%</td>
<td>221</td>
</tr>
<tr>
<td>Violent</td>
<td>44.6%</td>
<td>0.5%</td>
<td>80.7%</td>
<td>0.4%</td>
<td>554</td>
</tr>
<tr>
<td>Property</td>
<td>29.6%</td>
<td>0.4%</td>
<td>68.7%</td>
<td>1.4%</td>
<td>517</td>
</tr>
<tr>
<td>Other Felony</td>
<td>18.9%</td>
<td>0</td>
<td>80.7%</td>
<td>0.4%</td>
<td>254</td>
</tr>
</tbody>
</table>

As indicated by these tables, the largest percentage of criminal cases that are presented in this sample of state courts are disposed of by the defendant entering a guilty plea opposed to going to a trial. With the exception of New York, the number of felony cases that come before state courts is relatively stable across states. For example, Arizona disposed of a total of one hundred and twenty drug trafficking cases in 1996, while Illinois disposed of ninety-one. Florida disposed of one hundred and fifty one trafficking cases that same year. An interesting statistic presented here is the number of felons that were prosecuted for a drug trafficking offense in New York. All other states prosecuted a greater number of felons for “other drug” offenses compared to trafficking, which basically means these felons were prosecuted for felony drug possession. New
York prosecuted more than twice the amount of felons for drug trafficking versus “other drug” offenses (555 to 221). However, more than 25% of those trafficking cases were dismissed from the court.

For drug trafficking offenses, Arizona and New York had the highest dismissal rates (35% and 25.6%). Florida and Illinois had the lowest dismissal rates for drug trafficking (11.3% and 9.9%), however, when the offense was “other drug,” the dismissal rate in Illinois was the second highest (51.5%) behind Arizona (52.2%). Florida had the highest rate of actually disposing of a case and getting convictions for drug offenses as opposed to defendants either being acquitted, or having the case totally dismissed from the court. For drug trafficking and “other drug” offenses, Florida state courts were able to obtain either a guilty plea or guilty trial verdict over 80% of the time in 1996.

**Prison and Jail Sentences versus Non-Incarcerative Sentences**

Tables 18 and 19 show the percentage of convicted felons that received a prison or jail sentence for a drug trafficking or other drug offense. Within the tables, the term “non-incarcerative sentence” means that the percentage of felons shown did not spend any further time in a detention or correctional facility once the case had reached disposition. Non-incarceration can be interpreted a number of different ways depending on the state in question. These sentences can range from a probation, a fine, or referral to a drug court which some of the states from this sample had already implemented in 1996.

According to Table 18, which pertains to drug trafficking sentences, the state of New York incarcerated more drug traffickers than any other state from the sample (84.1% incarceration rate). New York also had the highest number of drug trafficking cases. Arizona had the lowest rate of incarceration for drug traffickers based on the fact that 51.4% of convicted drug traffickers received a non-incarcerative sentence in that state. Illinois had the second highest rate of incarcerating drug traffickers in prison.
opposed to a jail setting (43.4%). Prison sentences are typically longer than jail sentences, and interestingly, the state of Florida sent more felons to jail than prison for drug trafficking. Approximately 15.1% more convicted felons received a jail sentence as opposed to a prison sentence for drug trafficking within the state of Florida.

Table 18.
Prison, Jail, or Non-Incarcerative Sentence (Trafficking) (1996)

<table>
<thead>
<tr>
<th>State</th>
<th>Prison</th>
<th>Jail</th>
<th>Non-Incarcerative</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>27.8%</td>
<td>20.8%</td>
<td>51.4%</td>
<td>72</td>
</tr>
<tr>
<td>Florida</td>
<td>19%</td>
<td>34.1%</td>
<td>46.8%</td>
<td>126</td>
</tr>
<tr>
<td>Illinois</td>
<td>43.4%</td>
<td>9.2%</td>
<td>47.4%</td>
<td>76</td>
</tr>
<tr>
<td>New York</td>
<td>53.2%</td>
<td>30.9%</td>
<td>15.9%</td>
<td>314</td>
</tr>
</tbody>
</table>

Table 19.
Prison, Jail, or Non-Incarcerative Sentence (Other Drug) (1996)

<table>
<thead>
<tr>
<th>State</th>
<th>Prison</th>
<th>Jail</th>
<th>Non-Incarcerative</th>
<th>Total Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>15.4%</td>
<td>28.2%</td>
<td>56.4%</td>
<td>117</td>
</tr>
<tr>
<td>Florida</td>
<td>8.1%</td>
<td>31.5%</td>
<td>60.4%</td>
<td>235</td>
</tr>
<tr>
<td>Illinois</td>
<td>35.8%</td>
<td>2.2%</td>
<td>61.9%</td>
<td>134</td>
</tr>
<tr>
<td>New York</td>
<td>27.7%</td>
<td>36.6%</td>
<td>35.6%</td>
<td>101</td>
</tr>
</tbody>
</table>

According to Table 19, New York once again had the highest incarceration rate for all four states for "other drug" offenses. However, it had the least amount of cases for "other drug" offenses (101 total cases). The incarceration rate for New York was 64.3%, while Arizona had the lowest rate (43.6%). These totals include both prison and jail sentences combined. Florida once again sentenced more felons to jail than prison (8.1%
versus 31.5%), as did Arizona (15.4% versus 28.2%). With the exception of New York, all of these states had a non-incarcerative sentencing rate of 56.4% or higher for "other drug offenses." This means that more than 56% of all convicted felons in three out of four states received an alternative sentence for a felony drug crime rather than being incarcerated.

**Average Length of Prison Sentences By State and Type of Offense**

Table 20 represents the average length of time that convicted felony offenders served for the offense that had the longest sentence length with which they were convicted. This table does not include numerous or "stacked" charges that a felon could be serving time for. The table only include the means of the prison sentence that was the longest in which felons were sentenced to serve. While this study is primarily concerned with drug related offenses (trafficking and possession), the table includes other felony sentences to show how much time felons sent to prison for drug offenses serve in relation to other serious felonies.

**Total Time Served as a Percentage of Maximum Sentences**

Table 21 demonstrates the total percentage of the maximum sentence that felons actually served within this sample. For example, if felons were sentenced to a prison term for a trafficking offense that equaled one hundred and twenty months in prison (10 years), this table will show the percentage of that sentence that the felon actually served. The felon may have only spent sixty months in prison, or exactly fifty percent of the sentence received.
### Average Length of Prison Sentence For Most Serious Offense:
**Listed Offenses (1998)**

<table>
<thead>
<tr>
<th>State</th>
<th>Offense</th>
<th>Average Length of Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>Trafficking</td>
<td>46.8</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>21.1</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>88.1</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>41.1</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>32.7</td>
</tr>
<tr>
<td>Illinois</td>
<td>Trafficking</td>
<td>53.8</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>24.7</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>107.1</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>45.8</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>33.8</td>
</tr>
<tr>
<td>Nevada</td>
<td>Trafficking</td>
<td>61.6</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>39.6</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>154.9</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>49.9</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>47.5</td>
</tr>
<tr>
<td>New York</td>
<td>Trafficking</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>279.8</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>120</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>62.8</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>61.8</td>
</tr>
</tbody>
</table>

Note: Length of sentences interpreted in terms of months.

Table 21 demonstrates that in three out of four states, felons do not serve the full extent of their maximum prison or jail sentences for trafficking, possession, or any other felonies for that matter. The only exception to this trend is the state of Illinois, where...
apparently, felons sentenced to prison for all the listed felonies serve one hundred percent of their maximum sentences.

In the state of New York, felons convicted of drug trafficking served only 36.2% of their maximum sentence. When the maximum sentence was for possession in New York, felons only served 43.4% of that maximum sentence. This data presents an interesting disparity, and the results demonstrate states with the most punitive statutory penalties for drug offenses actually sentence felons to comparable amounts of time in prison to the states with lenient statutes. New York had the most punitive statutes in terms of possible prison terms (up to life in prison for both trafficking and possession), while Illinois had moderate statutes in comparison (1 to 30 years in prison for both trafficking and possession). Yet felons in Illinois were required to serve the full term of their maximum sentence, while convicted drug felons in New York served less than forty-five percent of their maximum sentence for both drug crime categories.

Looking at Nevada in comparison to Florida, Table 20 indicates that the average sentence length for trafficking in Nevada is approximately 61.6 months in prison or jail when trafficking is the most serious offense, and the total percentage served on the maximum sentence is approximately 49.2%. In Florida, the average sentence length for trafficking is only 46.8 months in prison or jail, and felons serve an average of 75.6% of that sentence when it is the maximum. Interestingly, Nevada was defined as a state that had lenient statutes (1 to 15 years), and Florida was defined as a state that had punitive statutes based on prison sentences (1 to 30 years). However, the average sentence length for trafficking in Nevada was approximately fifteen months longer than Florida for drug trafficking.
Table 21. Total Time Served as a Percentage of the Maximum Sentence: Listed Offenses (1998)

<table>
<thead>
<tr>
<th>State</th>
<th>Offense</th>
<th>% of Maximum Sentence Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>Trafficking</td>
<td>75.6%</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>81%</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>71.1%</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>74.3%</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>78.5%</td>
</tr>
<tr>
<td>Illinois</td>
<td>Trafficking</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>100%</td>
</tr>
<tr>
<td>Nevada</td>
<td>Trafficking</td>
<td>49.2%</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>57.7%</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>49.2%</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>57.8%</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>48.9%</td>
</tr>
<tr>
<td>New York</td>
<td>Trafficking</td>
<td>36.2%</td>
</tr>
<tr>
<td></td>
<td>Possession</td>
<td>43.4%</td>
</tr>
<tr>
<td></td>
<td>Violent Offense</td>
<td>51.1%</td>
</tr>
<tr>
<td></td>
<td>Property Offense</td>
<td>37.5%</td>
</tr>
<tr>
<td></td>
<td>Other Felony</td>
<td>46.7%</td>
</tr>
</tbody>
</table>

Note: Length of sentences are in months.

While felons in Florida served a greater percentage of their sentence than felons in Nevada, those convicted of drug trafficking in Florida only spent approximately 35.3 months in jail or prison, and those in Nevada served approximately 30.3 months in jail or prison for the same offense. The results again demonstrate that even though some states...
have more punitive statutory penalties for drug offenses than other states, the actual time offenders spend in a correctional facility are comparable.

Further analysis that demonstrates similar results is also indicated by Table 20 for felony possession sentences. Florida, the state that was defined as having the more punitive statutes than Illinois and Nevada, has a lower average length of sentence for felony possession when it was the most serious offense (approximately 21.1 months). Illinois had an average sentence length of 24.7 months, and Nevada's was 39.6 months. Felons in Florida served approximately 81% of their maximum sentence for felony possession, which is approximately 17.1 months in jail or prison. In Illinois, felons once again served 100% of their sentence, approximately 24.7 months in jail or prison. Finally, felons in Nevada served approximately 57.7% of their sentence, which is an average of 22.8 months in a jail or prison setting.

One exception existed when comparing the average sentence lengths with the percentages of time served. New York felons serving time for possession offenses had an average length of prison sentence that equaled 279.8 months (see Table 20). When compared to the percentage of the maximum sentence served, only 43.4% of that prison sentence was served (see Table 21). Even though the percentage of time served is below 50%, the actual time served compared to the maximum sentence is approximately 121.4 months. This finding demonstrates that the amount of actual time spent in jail or prison is not the same as the average maximum sentence length. However, it is concluded that in New York, felons convicted of possession offenses serve a significant amount more time in prison than convicted felons from the remaining sections of the sample.
CHAPTER 5

DISCUSSION & CONCLUSIONS

This chapter provides a discussion of the findings from the data analysis that was conducted for this study. Included is a discussion of the variation found in statutory penalties across the sample, and the disparities across the sample in the processing of felony drug offenders. Also discussed is the disparity between the written law (statutory penalties), and how infrequently it is enforced, which is reflected in case disposition rates, prison and jail sentences versus non-incarcerative sentences, and average length of prison sentences compared to the actual percentage of time served for those sentences.

Results of Findings

The results of the data analysis conducted for this study supported what was expected to be possible. Based on these findings, statutory penalties pertaining to drug offenses that were defined as having more punitive aspects are comparable and sometimes less punitive than states that were defined as having less punitive aspects in their statutes. The one exception to this trend was found in the state of New York for felony possession offenses. Even though the percentage of actual time served for the offense was below fifty percent, convicted felons still served, on average, a greater percentage of time in jail or prison for their offense than any other state from the sample. It is therefore concluded that in this particular case, the punitive aspects of the written law have a direct effect on the length of sentence for felons that are incarcerated for felony possession in the state of New York. However, the trend within the other states from this
sample demonstrate that sentencing rates and actual time served in a prison or jail setting are relatively similar in terms of how long offenders are required to spend incarcerated in state correctional facilities, regardless of what is written in statutory penalties. This is also inclusive of drug trafficking in New York.

**Defining More Punitive States versus Less Punitive States**

A great level of variation exists in statutory penalties across the states within this sample, and the same can be said about states that lie outside the scope of this study. When researching the statutory penalties for the states in this study, it was difficult in defining which states would be considered more punitive in nature, and states that had less punitive aspects. This was due to some states not specifying minimum penalties, whether or not increased penalties existed for subsequent or repeat offenses, and the overall range of years that were possible for specific offenses.

Overall, New York penalties were defined most punitive because of possible life sentences for specified possession and trafficking crimes. Florida was determined to be the second most punitive state because it required mandatory minimum sentences for specified possession and trafficking crimes. Illinois was the state that set the standard between more punitive and less punitive states because their penalties remained within the same range of overall years for possession and trafficking. Minimum sentences varied in terms of years for both crimes, but the maximums were essentially the same for both crimes. Illinois was ranked the third state in terms of level of punitive laws, even though some of the maximum sentences for certain drug crimes were the same as Florida. However, Illinois did not have any mandatory minimum sentence requirements. Nevada was the fourth state ranked in terms of punitive statutory penalties. In Nevada, the minimum sentences for possession and trafficking were the same (1 to 2 years), and the maximum sentence for trafficking only increased by two years for all specified drugs.
according to the tables. Finally, Arizona was the fifth ranked state, and the least punitive state in terms of statutory penalties. For both possession and trafficking, minimum sentences were not specified. However, the maximum sentences for possession of all specified drugs was no more than 2.5 years. A minimum sentence can be interpreted as 1.5 years or less based on table construction. Trafficking offenses in Arizona ranged anywhere from 3.5 to 5 years, and the minimum can be interpreted as 3.5 years or less.

**The Disposition of Cases**

After researching this topic, it became obvious that the national drug policy, which exists at the federal level of government, is instrumental in determining how states process offenders who abuse and sell illicit drugs. With its primary emphasis on enforcement of the laws and punishment, state trial courts have been overwhelmed with extremely high volumes of criminal caseloads, primarily over the past two decades, to process these offenders, and have, to a degree, rendered their statutory penalties meaningless.

As indicated by the tables that provided information on case disposition, plea-bargaining is the current trend in which the majority of offenders for all crimes in general are processed. The use of plea-bargaining dilutes the punitive aspects of the written law, and offenders are, in some cases, aware of this fact and know how to work the system to their advantage. Within this sample, defendants were found guilty after a plea more than any other disposition category. The lowest percentage for plea bargaining in this sample was 42.4% of the time in Illinois for possession offenses. However, another 51.5% of those cases in Illinois were dismissed. The highest rate of defendants entering a guilty plea in this sample was in Florida for drug trafficking 81.3% of the time.

While reviewing the data available on case dispositions for this study, the rate of dismissal for major drug offenses in some states was astonishing. In Arizona, the
dismissal rate for drug trafficking was 35%. In New York, the dismissal rate was 25.6%. Florida and Illinois had substantially lower rates of dismissal, at 11.3% and 9.9% respectively. However, for felony drug possession, Illinois had a dismissal rate of 51.5%. Arizona’s dismissal rate for possession was 52.2%.

There are several explanations that are possible for this high level of case dismissal. First, it is possible that some of these defendants had their cases dismissed because they were instrumental in providing information on offenders involved at a higher level of trafficking and/or possession. It is also possible that some defendants could have been aware that the prosecution did not have enough evidence to receive a conviction, or the available resources to prosecute to the full extent of the written law. Thus, cases were disposed of from the court because defendants opted for a trial, which was not conducted, instead of a plea. Finally, it is possible that due to extensive backlog in criminal trial dates, defendants would not receive their constitutional rights to a speedy trial, and had the charges against them dropped. Based on this data, it is concluded that significant amounts of defendants charged with felony drug crimes in all of these states spend little, or no time incarcerated for these offenses because the courts do not have the resources available to them to pursue the charges against all defendants.

Incarcerative Sentencing Rates Across States

The analysis on incarceration rates for this sample revealed that a significant portion of offenders convicted of drug offenses do not even receive a prison or jail sentence once cases are processed through the court. While New York had the second highest rate of dismissals for possession and trafficking, the state did sentence more offenders to prison or jail than any other state within the sample. Within the state of New York, offenders convicted of drug trafficking received a non-incarcerative sentence only 15.9% of the time. In comparison to the other selected states, this is a substantially low
percentage, considering the remaining states had non-incarcerative rates of 46.8% or higher for the same offense.

As expected, the rates of sentencing offenders to prison or jail for possession were significantly lower than for trafficking. The number of case loads for possession offenses are higher, and thus, rates of incarceration are lower because state courts are not properly equipped to prosecute all cases that are brought before them. New York once again had the lowest non-incarcerative rate of 35.6%. Of the remaining offenders that received incarceration as a sentence, 27.7% were admitted into a prison, and 36.6% were admitted into a jail. For the remaining states, the rate of non-incarcerative sentences was 56.4% or higher. Illinois had the highest rate of not sending possession offenders to prison (61.9% of the time). It is important to remember that although New York sentenced more drug offenders to prison overall, 25.6% of all trafficking cases and 23.5% of all possession cases were dismissed in that state before reaching the sentencing phase of the court process. It is therefore concluded that in this sample of states, significant amounts of felons that were processed through the trial or guilty plea phase in the courts did not receive a sentence to a correctional facility. Probation, fines, community service, or perhaps drug court referral were used as alternate sentences.

Comparison of Average Prison Sentence Length and Percentages of Total Time Served

For the remaining portion of this analysis, which provided data on prison admissions, average length of sentences for listed offenses (primarily trafficking and possession), and percentages of total time served for offenses, a separate data set was used that provided information on admitted felons in 1998. With the exception of the state of New York, the average sentence length for trafficking versus possession offenses were more than double (see Table 20). Interestingly, felons convicted of drug possession within the state of New York are sentenced to an average of 279.8 months, and only an
average of 118 months for trafficking. However, New York charged more offenders with trafficking than possession in the data from 1996, leaving open the possibility that the court system was backlogged in 1998, and defendants were pled down to possession offenses instead of trafficking.

When comparing the average length of sentences to percentages of total time served of those sentences, it is concluded that felons sentenced to prison for drug offenses do not serve substantial portions of their sentences. Illinois was the only state that offenders were required to serve the full amount of their maximum sentence. This was for all specified offenses, including drug offenses. Even though this was the case, when the average sentence lengths and percentages of time served for trafficking and possession are compared to the rest of the sample, the time these offenders spent incarcerated are comparable (see Tables 20 and 21). Possession offenders in New York are a break in the trend of comparison because the average sentence length is much higher than any other offense. However, only 43.4% of that sentence is actually served. That is still a considerable amount of time served (approximately 121.4 months on average), but it is speculated that a significant amount of these offenders had their cases pled down from a trafficking offense to a possession offense, and were sentenced to maximum extents under possession penalties. This is a distinct possibility because of the fact that New York charged and sentenced more offenders for trafficking than any other state in the data from 1996.

Recommendations for Future Research

In addition to the recommendations already made, there are several others that future researchers may want to consider if this topic of discussion is chosen again. In this research, I only selected four specific drugs and the penalties associated with their
possession and distribution. While these four drugs are all on either Schedule I or II of the Uniform Controlled Substance Act, other drugs that are on these two schedule lists are just as prevalent, and may have other varied penalties associated with them. For example, heroin is a popular drug of abuse, and may or may not have similar penalties to the four drugs specified in this study. It also needs to be recognized that while these four drugs are some of the most popular and abused among drug offenders, they are not inclusive of all drug offenders that were included in this analysis. Perhaps in future research if all or several different illicit drugs in Schedule I or II were included in the interpretation of statutory penalties, there would be even more variation among states.

Summary and Conclusions

While the data that were used for this analysis was limited in some respects, it has demonstrated what was thought to be true. The results of this study have demonstrated that there is in fact a level of variation that exists between states and their statutory penalties, and that states that have more punitive aspects are comparable and sometimes less punitive than states that have more lenient aspects.

The analysis that was conducted in Chapter 4 can best be compared to a filtering system for offenders that enter the court system. Once an arrest has been made, there are percentages of cases that are filtered out of the system through dismissal or acquittal. After the dismissal percentages have been filtered out, percentages of cases that are sentenced to a non-incarcerative sentence (probation, fine, etc.) are eliminated from the system. Finally, the rest of the population that was sentenced to prison or jail had to be compared across the sample in terms of average length of sentence, and percentages of how much time was actually served of that average sentence within the population. The remainder of offenders that exist in this population are the only means available to
determine if the punitive aspects of statutory penalties are reflected in the amount of time offenders are sentenced to serve, and the actual amount of time they do serve. Based on the results of this analysis, they are not reflective of one another.

Once all of these factors have been taken into account, it is obvious that a significant amount of offenders that are convicted of felony drug crimes do not serve any time in prison. On average, those that are sentenced to serve time are not required to serve the maximum penalties that statutes provide for. Thus, it is concluded that the punitive aspects of statutory penalties are not, and cannot be pursued with the level of rigor in which some states provide for.

Perhaps these obvious disparities bring attention to the need for uniform drug laws across states. There is no doubt that depending on the state that offenders are arrested in, the possible penalties for certain drug crimes will in fact involve more severity as opposed to some other states. For example, a person charged with trafficking methamphetamine in New York is subject to greater penalties than if they were charged in Arizona. An individual in New York is subject to a maximum life sentence, whereas in Arizona, only a possible five-year maximum sentence is provided for. In terms of an individual’s constitutional rights, this clear disparity in laws between states is a matter that needs to be addressed.

While it has been historically documented that states have experimented with policies that differ from national drug policy, maybe the time is right to make an attempt to unify the drug laws and policies among all fifty states modeled after the federal level. It is noted that drug policy at the state level is mainly burdened with cases that typically involve smaller amounts of controlled substances, whereas the federal level typically pursues criminal prosecutions that involve trafficking and conspiracy charges. However, it is plausible to think that if states followed the federal model more closely, they would
be able to pick and choose their court battles relatively easier, and perhaps be able to put more of the high-level offenders in prison that belong there.

While the United States is not alone in the world in relation to the drug problem, it does appear that we are alone in the reality that we have not taken any new initiatives, other than increasing prison sentences and enacting harsher laws to combat the problem. Ultimately, the United States stands by itself as the only country not to change its approach to the drug problem, and it does not appear that our laws and policies are going to change any time in the near future. Instead of looking at and exploring new policies and laws that would lessen or remove criminal penalties for drug offenses, perhaps a better approach would be to work with what is already in place, and make the appropriate changes and modifications within the current justice system. Under current United States drug policy, the focus has been on investigation, enforcement, detection, and eradication of illegal drugs in the country.

From the beginning of the twentieth century, when the notion of a drug problem really began to take form in this country, funding continues to gradually increase every year to combat, and perhaps even eliminate drugs from American society (Gray, 2001). The drug problem in this country is far reaching, and stretches well beyond the borders and territories of the United States, which has made the War on Drugs difficult to combat and has not yet yielded many victories in the eyes of legalization proponents.

Considering the enormous profits associated with the production, trade, and sale of illicit drugs, compared to the relatively small amount of federal and state funding received to combat the drug problem, it is hardly surprising the war is being lost. According to a United Nations International Drug Control Program report, world trafficking in illicit drugs made up about eight percent of all world trade as of 1995 (Gray, 2001, p. 80). This figure represents approximately $400 billion of international...
drug transactions per year (Gray, 2001, p. 80; citing Porubcansky). The report goes on to say that nearly 140 million people (about 2.5% of the world's population) smoke marijuana and hashish, 13 million people use cocaine, 8 million people use heroin, and 30 million use stimulants such as amphetamines. Illegal drugs are a bigger business than all exports of automobiles, and about equal to the international textile trade. The report estimates that seizures worldwide amount to only a third of all cocaine, and from 10 to 15 percent of all heroin being sold and consumed (Gray, 2001, p. 80 citing Porubcansky). If these numbers are accurate, it is no wonder that the drug problem has not been conquered, given the inadequate federal and state funding towards the War on Drugs in comparison to the profits being made from their production and sale. Given the fact that these numbers are approximately seven years old, it is indeed highly probable that the estimate of $400 billion per year within the international drug trade has increased since 1995.

According to the White House Office of National Drug Control Policy, the federal budget for fiscal year 2000 was $19.2 billion to combat drugs in this country. Compared to the 1995 estimate of $400 billion within the international drug trade, the efforts on the part of the federal government to compete with the very well financed drug sources in and outside of the United States seem ineffective.

With these numbers being presented, it is clear that we have a number of options based on our current policy. The option supported by those in favor of legalization is to abandon our current drug laws and release prisoners currently serving sentences for drug offenses to alleviate the overwhelmed prison population. The more logical option is to dramatically increase funding for not only law enforcement efforts (e.g. investigation, seizure, and detection efforts), but also increase funding for rehabilitation efforts to assist drug addicts that have a desire to eliminate their drug problems. The aftermath of the
tragic events of September 11, 2001 has demonstrated that deterrence efforts can work, as
drug seizures at the borders were reduced by fifty percent in the weeks following the
attacks (CNN Headline News). Unfortunately, it took a major terrorist attack on this
country to draw the close attention of politicians and government officials that our
borders are not properly secured, and that there are large numbers of illegal immigrants
that enter this country every day, many of which are transporting illicit drugs.
APPENDIX

STATE PROFILES OF INITIATIVES AGAINST ILLICIT DRUGS
State Initiatives to Combat Illegal Drug Use and Distribution

All of the states selected have individual initiatives set in place to cope with the drug problems they are faced with. The states that were selected for this analysis were done so deliberately in order to allow for diversity among different parts of the United States in regards to their trends in drug use, drugs of choice among users and traffickers, and the level of availability for specific drugs. Among each state and region from which they are designated, they each face different tasks in combating illicit drug use and distribution. For example, Arizona has the task of trying to prevent illegal drugs coming across the border from Mexico and South America. Florida and New York both border along the Atlantic Ocean, and must attempt to prevent merchant ships that smuggle drugs into the country from docking in their harbors to transport the drugs to other parts of the country.

Arizona Programs, Initiatives, and Profile of Drug Indicators

The state of Arizona has approximately 350 miles of unsecured international border that is shared with Mexico. Within this area, the smuggling of multi-ton quantities of cocaine and marijuana are a major problem, and contribute to the vast majority of illicit distribution and use of drugs in the state of Arizona. Most of the smuggling occurs in motor vehicles driven across the Mexican border. In 1990, the Arizona Alliance Planning Committee located in Tucson was designated as part of the Southwest Border HIDTA (High Intensity Drug Trafficking Area). Yuma, Maricopa, Pinal, Pima, Santa Cruz, and Cochise Counties participate in the Southwest Border HIDTA (Office of National Drug Control Policy, 2001).

Marijuana is the most widely smuggled and distributed drug in Arizona, and law enforcement efforts have yielded some success in containing its manufacture and distribution. As of October 31, 1999, there were 17,625 full time law enforcement
employees in Arizona. In the same year, there were a total of 3,329 cultivated marijuana plants eradicated within the state. The total value of assets seized in Arizona in 1999 related to marijuana eradication and seizure totaled $751,675 (Office of National Drug Control Policy, 2001).

The use and implementation of drug courts in the United States has grown over the last decade, and Arizona was one of the first states to implement them. The drug court in Phoenix opened in 1992 to alleviate the overwhelmed criminal court. As of March 31, 2000, there were 20 drug courts in Arizona, and several others were also being planned for Tribal groups within the state (Office of National Drug Control Policy, 2001).

Florida Initiatives and Drug Indicators

The state of Florida has two HIDTA task forces in place within its borders. The South Florida HIDTA was designated as one of the five original HIDTA in 1990, and is composed of Monroe, Miami-Dade, and Broward Counties. This HIDTA has successfully dismantled drug trafficking organizations and gangs, arrested drug-involved career criminals and violent offenders, and made major progress in dismantling the Medellin and Cali Cartels (Office of National Drug Control Policy, 2001). Miami is in close proximity to drug producing countries, which has made it a major target of criminal enterprise. The Southeast Florida Regional Task Force conducts money laundering and drug trafficking investigations, seizes illicit drugs and related profits and assets, and prosecutes members of drug trafficking organizations. Other task forces in the South Florida HIDTA initiatives include the North Broward Drug Enforcement Unit, the Miami HIDTA Task Force, the Cali Cartel Enforcement Group, and the Gang Strike Force.

Designated in 1998, the Central Florida HIDTA is responsible for Hillsborough, Orange, Osceola, Pinellas, Polk, Seminole, and Volusia counties. This area encompasses
four international airports, two major seaports, 75 miles of coastline along the Gulf of Mexico, and 47 miles of coastline along the Atlantic Ocean. Several different task forces have been implemented to combat specific drugs that have surfaced as major problems. The Central Florida Methamphetamine Task Force targets major methamphetamine trafficking organizations based in the Central Florida area. The area that makes up the Central Florida HIDTA has experienced an increase in methamphetamine use, with concentrated areas found around the Mexican migrant farming communities. The Colombian/South America Drug Trafficking Organizations Task Force aims at reducing the sale and distribution of powder cocaine, crack cocaine, and heroin within the Tampa Bay area. Methamphetamine labs have also begun to spread throughout this region (Office of National Drug Control Policy, 2001).

Illinois Programs and Initiatives

Designated in 1995, the Chicago HIDTA addresses the disruption and dismantling of major illicit drug trafficking organizations as well as the accompanying violence, crime and socio-economic decay associated with illegal drugs. The Chicago effort focuses on improving information and intelligence-sharing, coordination, interdiction, and disruption of the drug trade affecting Cook County. The Chicago HIDTA is responsible for Cook, Grundy, Kendall, and Will Counties (Office of National Drug Control Policy, 2001).

The Chicago HIDTA initiatives have several independent task forces in place. The Narcotics and Currency Interdiction Unit (NARCINT) identifies and interdicts illicit drug and currency shipments generated by drug trafficking organizations. The South Suburban Gang Unit combines the resources of numerous law enforcement agencies to target street gangs selling illicit drugs on the streets of south suburban Cook County (Office of National Drug Control Policy, 2001).
Cocaine use is the most severe drug problem in the state of Illinois. Crack cocaine availability has decreased in the Chicago area in the past several years. However, powder cocaine availability has increased. Users of both form of the drug tend to be young adults, both male and female, and black (Office of National Drug Control Policy, 2001). Heroin is the second most widely available drug in Illinois, and in accordance, has experienced an increase in price. Marijuana has been described as “somewhat available” in the Chicago area, although there have been increases of hydroponic marijuana reported.

Nevada Drug Statistics and Initiatives

The state of Nevada was the smallest state selected for this study in regards to population estimates (approximately 1.7 million people). However, drug abuse and arrests for drug violations is considered to be a major social problem within this state. The city of Las Vegas, which is in Clark County, is the major metropolitan area within the state of Nevada, and the majority of drug possession, manufacturing, and trafficking occurs within this city compared to the rest of the state. The urban areas of Nevada, primarily Las Vegas and Reno, have seen an increase in population in the past ten years, and this has also led to more drug related crime including gang activity, domestic violence, and juvenile drug use. According to a state-wide survey of drug use, methamphetamine has surpassed marijuana as the drug of choice among users in Nevada (Office of National Drug Control Policy, 2000). After methamphetamine and marijuana, the most popular drug is cocaine, followed by heroin. Other trends in Nevada include an increase of juvenile drug use and crime, a decrease in the price of illicit drugs, and an increase in drug related crimes (i.e. burglaries, thefts, domestic violence, and shootings).

During 1996, there were 61 drug treatment facilities in Nevada that served 4,082 clients. Of this amount that entered these facilities, 31.2% entered treatment for drug
abuse problems alone, while 45.6% entered treatment for both alcohol and drug abuse related problems (Office of National Drug Control Policy, 2000).

**New York State Initiatives and Profile of Drug Indicators**

New York State was the largest state that was selected for this study based on population (approximately 18.2 million people), and accordingly has the most drug and drug-related crime problems than any other state selected. The state of New York was designated as one of the five original High Intensity Drug Trafficking Areas in 1990, and the New York/New Jersey HIDTA employs a multi-agency task force approach to disrupt and dismantle drug-related money laundering and drug organizations (Office of National Drug Control Policy, 2000). This HIDTA task force is responsible for Nassau, Suffolk, and Westchester Counties as well as New York City. This region is the Northeast United States center for narcotics trafficking, serving as both a gateway and a marketplace.

The state of New York has various task forces assigned to different duties to combat illicit drug possession, manufacturing, and distribution. In 1998, 135,640 of the total drug arrests in New York were for possession, while 54,341 arrests were for sale/manufacturing. Also, as of October 31, 1998, New York had 82,797 full-time law enforcement employees, many of which are employed and fall under the jurisdiction of these task forces.

The Drug Trafficking Organization Task Force consists of representatives from the New York Police Department (NYPD), Drug Enforcement Administration (DEA), and Federal Bureau of Investigation (FBI). This task force conducts investigations to eliminate drug trafficking organizations in the New York metropolitan area. The task force targets narcotics organizations from street-level pushers to international traffickers. There are also several Prosecutor-led Task Forces that are an important component of New York's strategy to improve prosecution effectiveness. Two prosecutors' offices in
New York City and four prosecutors' offices outside the city operate these task forces. Examples include the King's County Prosecutor Task Force which investigates drug gang networks operating in public-housing projects, and the Queens Prosecutor Task Force, which focuses on the movement of large quantities of drugs shipped in to JFK international airport (Office of National Drug Control Policy, 2000).

Despite the decrease in cocaine/crack indicators in New York city, cocaine continues to account for major problems in the city. This drug dominates the current drug market within the New York/New Jersey HIDTA region. New York City also continues to be the most significant heroin destination and distribution center in the United States. Heroin selling locations continue to spread throughout New York City, and many former crack sellers have switched drugs and are now selling heroin because of its high profit potential (Office of National Drug Control Policy, 2000).

According to the Street Studies Unit (SSU) in New York City, marijuana is the most sought after illicit substance in the metropolitan area and continues to increase in availability and grow in popularity. Marijuana activity continues to show steady and dramatic increases, especially among adolescents and young adults in this area. According to law enforcement sources, the New York Police Department is making an effort to discourage marijuana activity in New York City despite the decriminalization of possessing small amounts of the drug (Office of National Drug Control, 2000).

In addition to the major drugs already discussed within the state of New York, U.S. Customs officials have stated that New York City is becoming the center of the illegal importations of Ecstasy (MDMA) with increased supplies from Belgium and the Netherlands being reported. Community Epidemiology Work Group (CEWG) indicators show that MDMA is widely available in New York City dance clubs as well as on the street (Office of National Drug Control Policy, 2000).
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