

**PATCHWORK POLICY:**  
AN EVALUATION OF ARRESTS AND TICKETS  
FOR MARIJUANA MISDEMEANORS IN  
ILLINOIS

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ILLINOIS CONSORTIUM ON DRUG POLICY  
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## **OUR MISSION**

The Consortium's primary objectives are to promote discussion of alternatives to Illinois' current drug policies and to serve as a forum for the open, honest, and thoughtful exchange of ideas. We aspire to serve both the general public and populations significantly affected by drug policies through careful analysis of current policies in the areas of housing, employment, education, social services, healthcare and economics. We aim to offer sensible, prudent, just and economically viable alternatives to ineffective policies. The Consortium seeks meaningful change by increasing dialogue, heightening public awareness, meeting with legislators, organizing individuals and communities, and expanding outreach to other organizations that are also impacted by drug policies. The Consortium views individuals and communities that have been directly impacted by drug policies as an integral component for change.

## EXECUTIVE SUMMARY

Nationally, the conversation around marijuana has changed significantly. More than 75% of Americans support measures that would end criminal sanctions for those in possession of small amounts of marijuana. According to polling data released in 2014, 63% of Illinois voters support a marijuana decriminalization bill. Despite these changing attitudes, Illinois's dubious distinctions in terms of marijuana possession arrests is evident in nearly every metric when compared with other states and the national average:

- Illinois ranked 5<sup>th</sup> nationally in the number of arrests for marijuana possession in 2010;
- Of the 5 states with the largest number of marijuana possession arrests from 2001 to 2010, Illinois' rate of arrest increased the fastest, by nearly one-third ;
- Illinois tied with Texas for 1<sup>st</sup> place for the proportion of marijuana possession arrests (97.8%) compared to all marijuana arrests and including sales, manufacturing, and delivery arrests;
- Illinois ranked fourth in the nation for the rate of arrests for marijuana possession per 100K;
- Illinois's marijuana possession arrest rate is more than 150% higher than the national average;
- Illinois ranked third in the nation for the black to white racial disparity of marijuana possession offenders, despite the fact that marijuana use is the same between these two groups;
- In Illinois, African Americans were about 7.6 times more likely to be arrested than whites;
- Cook County made the most marijuana possession arrests of any county in the nation with 33,068 arrests in 2010 and also had one of the worst racial disparity rates in the nation;
- Illinois' estimated spending for marijuana possession ranged from \$78 million to \$364 million per year on marijuana possession arrests and adjudications.

In Illinois, 84% of all marijuana arrests are for misdemeanor possession and these arrests represent a sizable portion of arrests within the state. For example:

- Three year averages for marijuana misdemeanor arrests from 2010-2013 are over 41,000 per year;
- In comparison to FBI index crimes, arrests for marijuana misdemeanors were equivalent to 50% of arrests for all index crimes, that is serious and violent crimes;
- Compared to all drug arrests, marijuana misdemeanor arrests make up 39% of drug arrests – including sales and possession of controlled substances - in the state of Illinois;
- Of marijuana misdemeanor arrests, 85% of arrests were for possession of cannabis totaling less than 10 grams.

As part of these changing attitudes, over 100 Illinois municipalities have passed ordinances that provide ticketing alternatives for small amounts of marijuana. Arrests however, can still be made under state law allowing law enforcement personnel to choose between arresting or ticketing individuals in possession of marijuana. An analysis of pre and post ordinance implementation arresting patterns found:

- Of the four municipalities reviewed, Chicago had the smallest decrease in arrests, with arrests declining by only 21% while Evanston had the largest decrease (46%);

- Marijuana misdemeanor arrests decreased by 40% in Urbana and by over 32% in Yorkville.

In order to understand the level of ticketing to arrests within each municipality, we calculated the ratio of tickets to arrests in six municipalities. Large differences were found between cities:

- Countryside had the highest level of implementation, with 88% of marijuana possession violations resulted in tickets;
- In Champaign, 75% of marijuana misdemeanor offenders received a ticket instead of arrest;
- In Evanston, 69% of misdemeanor marijuana possession violations resulted in a ticket;
- Urbana was slightly more likely to arrest than administer a ticket for marijuana possession (59% v. 41%);
- In Chicago, 93% of misdemeanor marijuana possession violations resulted in an arrest and in only 7% of cases a ticket was issued;

Since ticketing has been identified as a way of possibly reducing the negative impact of disproportionate minority contact (DMC), we assessed municipalities that provided race and ethnicity data:

- Study results indicated no real change in DMC after ticketing ordinances were implemented;
- Individuals receiving the tickets appeared to be a subset of those arrested;
- Yorkville showed little disproportionate minority contact prior to and after ticketing, while Evanston demonstrated high levels of DMC.

Arrest and ticket rate per 100,000 individuals was calculated in order to formulate accurate comparisons between municipalities of varying population sizes:

- Chicago had the highest arrest rate of any municipality in the study, even after the ordinance was implemented, with nearly 590 arrests per 100,000 individuals;
- Chicago was the only municipality studied with a marijuana arrest rate higher than the state rate, specifically 150% higher than the state average; and more than 230% higher than the U.S. rate;
- Evanston had the lowest arrest rate with 128 arrests per 100,000 individuals;

The sizable difference between Chicago's arrest rate and the rates of other municipalities warranted additional analyses. The number of arrests made in Chicago for marijuana misdemeanors drives state totals:

- In 2011, Chicago's misdemeanor arrest comprised almost 50% of the state total;
- Despite the decrease from 2011 -2013, the number of arrests was still disarmingly high in 2013, comprising 38% of Illinois total misdemeanor arrests;
- Additionally, the decrease in arrests did not represent a fundamental shift – both in 2001 and 2002, marijuana misdemeanor arrests were lower than in the most recent year (2013).

Arguments for the ticketing ordinance were focused on police time and costs. We calculated the amount of time and costs spent on marijuana arrests after the ticket was implemented and found:

- In 2013, Chicago police spent from 24,000 hours to 63,000 hours arresting marijuana misdemeanants;
- In 2013, the costs associated with misdemeanor marijuana arrests ranged from \$25 million to upwards of \$115 million dollars *after* the passage of the ticketing ordinance;
- If misdemeanor arrests were reduced by half, potential costs savings range from \$12.5 million to \$57.9 million; if the number of arrests dropped by three quarters, estimated costs savings range between \$18.8 million to \$86.9 million per year.

The low number of tickets given in Chicago in 2013 (only 1,100) resulted in a significant amount of lost revenue:

- The amount of revenue generated for 2013 from marijuana tickets was small, around \$416,250;
- If half of the number of arrests were charged as tickets, the revenue generated would be closer to \$2.9 million and if three-quarters of arrest resulted in tickets, the revenue generated would be more than \$4.5 million per year.

Marijuana misdemeanor rates within community areas prior to and after the implementation of the Chicago ticketing ordinance were also analyzed:

- Geographic disparity by community area was found even *after* the ticketing ordinance was implemented, with marijuana possession rates that are more than 1100% above the national average;
- After the ticketing ordinance was implemented, disparities in neighborhood arrest rates increased, for example Fuller Park, East Garfield Park, and West Garfield Park had arrest rates that were 7 times higher than the city of Chicago's average rate;
- Compared to the Edison Park (the neighborhood with the lowest arrest rate), neighborhoods such as Fuller Park, East and West Garfield Park had marijuana arrest rates that were more than 150 times higher after implementing the ticket ordinance;
- Neighborhoods with a large African American population were found to be predictive of high arrest rates for marijuana misdemeanor arrests ( $p < .001$ ).

## Findings

Inconsistencies in the implementation of ticketing legislation are the result of disparities in ticket administration from one community area to the next. Discrepancies in the application of the tickets by geography create a patchwork system of policy resulting in an unequal application of justice. Because a two-tiered system still exists, police retain discretion and can choose who to ticket and who to arrest. Geography, not justice, determines whether marijuana possession results in a fine or an arrest.

## **POLICY RECOMMENDATIONS**

Analyses of the implementation of ticket ordinances in a sampling of municipalities in Illinois revealed inconsistent policies regarding small amounts of marijuana. In some communities, particularly minority neighborhoods, arrests for marijuana possession have increased. This creates a patchwork of policies – what may occur in one area may not occur in another. Illinois requires a comprehensive solution to the issue of misdemeanor cannabis arrests.

As of April 2014, 54% of Americans support the legalization of marijuana and 75% of Americans believe that legalization is inevitable. In addition to changing opinion regarding marijuana, Illinois's dire financial straits have opened the door to discussions among policymakers regarding examining taxation and regulation of cannabis. It is estimated by the Governor of Colorado that taxation and regulation of cannabis will bring in about \$94 million in tax revenue from both medical and recreational marijuana in the 2014-15 fiscal year. In addition, there are some cost savings aside from the taxation of revenue – such as the costs savings stemming from the elimination of probation, detention, policing, and testing under current state law. Both public opinion and the dire fiscal situation in Illinois – which last year had the worst credit rating of all the states in the nation – indicate that it would be prudent to examine revenue possibilities generated by taxation and legalization of cannabis:

- Illinois should conduct a fiscal analysis of the possible tax revenue generated by the licensing, regulation, and taxation of cannabis for those age 21 and older;
- Determine the best earmarks for these revenues such as school funding, substance use prevention, and treatment.

According to polling data in 2014, 63% of Illinois voters support a marijuana decriminalization bill. In addition, in order to develop a comprehensive marijuana misdemeanor or marijuana possession policy, statewide legislation should be developed to replace the patchwork system which is now in place:

- Establish a comprehensive statewide policy to decriminalize misdemeanor amounts of marijuana;
- Create a civil fine or regulatory offense so that individuals do not experience collateral consequences when seeking employment, housing, education, or professional licensure;
- Create fines small enough to ensure that individuals are capable to pay the ticket;
- Create alternative penalties for people unable to pay the fine, otherwise the ticket may turn into an arrest, which defeats the purpose of reforming marijuana laws;
- Earmark revenues generated from civil marijuana possession penalties for schools, substance use prevention, and treatment programs.

However, it should be noted that a decriminalization policy will likely not reduce racial disparity among ticketing offenders as noted in this report. In order to eliminate racial disparities, policing practices would need to change.

Changing policing policies to reduce the number of marijuana arrests made so that police can focus attention on serious crimes is a sensible idea. Lowering the number of arrests is good policy from a

public safety standpoint, especially given the issue of gun violence in Chicago. Furthermore, redirecting the focus of law enforcement away from low level marijuana offenses makes both fiscal and economic sense, particularly at a time when budgets are especially tight:

- Consider making marijuana possession offenses the lowest law enforcement priority within municipalities;
- If Chicago implemented such a policy, it would greatly reduce the rate of marijuana possession arrests, as Chicago accounted for about 38% of marijuana arrests in 2013 and as much as 50% of state arrest totals in 2011.