

Proposed Drug-Related Sentencing Reforms

Amend Habitual Offender Law for Drug-related Offenses

Currently in New Mexico, a person who is convicted of a third felony offense may be charged as a "habitual offender." If so charged, the defendant faces a mandatory increased sentence of up to eight years, regardless of the seriousness of the offenses. This bill would allow judges to choose whether or not to apply the enhanced penalty in cases where one of the three underlying convictions is a drug offense. The sentence enhancement would remain available and could be applied in cases where the judge determined that it was appropriate; however, it would no longer be mandatory in every case.

Civil Penalties for Possession

This bill would remove criminal penalties for small amounts of marijuana for personal use. Marijuana would remain illegal; however, instead of using resources for arrest, prosecution, and incarceration, a person in possession of one ounce or less of marijuana would be subjected to a civil fine of \$100 on a first offense and \$500 on second and subsequent offenses.

Reduce First and Second Drug Possession Offenses to Misdemeanors

This bill would reduce first and second offenses involving small amounts (under 2 grams) of potentially addictive drugs, such as heroin and cocaine, from fourth-degree felonies to misdemeanors. First and second time offenders would be subject to the sentences available in misdemeanor cases: probation, fines, and up to one year in jail. In many cases, this would allow access to needed services and programs for people suffering from drug addiction, including drug abuse treatment where appropriate; reduce the likelihood that a person would lose his or her job and/or be able to find new employment; and allow for the commitment of state and local resources to effective drug treatment and drug education rather than to incarceration for non-violent drug offenders.

The Lindesmith Center-Drug Policy Foundation

Why study drug costs?

The criminalization of drugs, as with any other activity, produces multiple consequences for society. New Mexicans are revisiting the effects of current drug policies on our state. In order to understand the potential impact of sentencing reforms we must first understand the extent of drug-related crime in New Mexico and the economic costs associated with those crimes. If cost-saving reforms are paired with treatment, prevention, and education programs the benefits to the state will include a healthier, more productive citizenry and a decreased burden to state taxpayers.

For more information please contact:

**The New Mexico Drug Policy Project
The Lindesmith Center -- Drug Policy Foundation**

1227 Paseo de Peralta
Santa Fe, NM 87501
Telephone: (505) 983-3277
Fax: (505) 983-3278

E-mail: NewMexico@improvenewmexico.org
www.improvenewmexico.org/

Cost estimates developed by:

Susan Brumbaugh, Ph.D.

Amelia Rouse, Ph.D.

UNM Institute for Social Research

2808 Central SE

Albuquerque, NM 87106

(505) 277-4257

www.unm.edu/~isrnet

The Costs of Drug-Related Criminal Justice Policies



The Lindesmith Center/Drug Policy Foundation

About this Summary

Although the costs of drug abuse to society go beyond the criminal justice system, this summary focuses on the estimated costs associated with drug-related criminal justice activities in New Mexico, specifically the apprehension, adjudication, incarceration, and supervision of drug offenders, both for possession and trafficking. Estimating these costs depends on the availability of complete and good quality data.

This summary incorporates information about drug-related criminal justice activities from as many sources as possible and supplements this information with national estimates.

Known New Mexico Costs to the State

New Mexico cost estimates include only costs to New Mexico State government and do not include federal or local costs. They are based on the best available data on the number of drug-related offenders associated with different agencies of the New Mexico criminal justice system. This document uses actual costs from agency records, and estimates are used when data are absent or incomplete. Sources of information include: state criminal justice agency reports and databases, data and reports compiled by the New Mexico Criminal and Juvenile Justice Coordinating Council (CJJCC), BJS statistics and conversations with state agency personnel. Federal and local costs are not included in this estimate. Following conventions used in national substance abuse studies, 30% of property crimes are assumed to be drug-related. The baseline year of 1997 was chosen for cost estimates because it is the year for which the most complete information was available.

1992 National Institute on Drug Abuse (NIDA) Estimates Adjusted for New Mexico

The most current national information from *The Economic Costs of Alcohol and Drug Abuse in the United States – 1992*, has been adjusted to estimate New Mexico's share of the national economic costs of criminal justice-related drug abuse. *This estimate includes federal, state and local costs* and assumes (probably inaccurately) that drug behavior and expenditures on criminal justice activities occur in New Mexico in the same proportion as the rest of the United States.

A recent report released by the National Center on Addiction and Substance Abuse at Columbia University, "Shoveling Up: The Impact of Substance Abuse on State Budgets" estimates the criminal justice-related costs of substance abuse in NM at \$167 million, however, their estimate includes alcohol and drug abuse.

Costs of Drug-Related Criminal Justice Policies

Police Protection

\$6,729,000

The estimated cost of police protection is based on the number of drug and property crime arrests reported in the 1997 Uniform Crime Report for New Mexico and the annual state budget allocated for police protection in 1997. Of all adult arrests reported in New Mexico in 1997, 6.0% were for drug offenses and an estimated 4% were drug-related property crimes. Although not all agencies reported, we assume that the proportion of drug crimes is accurately represented by those agencies reporting.

Excluded: Cost of calls for service for drug-related activity; and investigations that do not lead to arrest or prosecution.

NIDA Estimate: \$36,054,000

Court Processing

\$7,757,000

The cost estimate for court processing is based on case processing described in New Mexico Administrative Office of the Courts annual reports apportioned across agency budgets. It includes estimates of drug case processing costs in district, magistrate and metropolitan courts and incorporates difference in the costs of processing trial versus non-trial cases. The estimate also includes District Attorney costs.

Excluded: Public Defender services for indigent defendants; appellate court and Public Defender costs associated with drug-related cases brought on appeal.

NIDA Estimate: \$9,394,000

Corrections

\$27,500,000

The estimated cost of correctional policies is based on data regarding drug and property convictions from the Administrative Office of the District Attorneys Case Management System and daily cost estimates provided by the Corrections Department. Over half of all convicted drug-related offenders currently receive probation. About a third of trafficking and drug-motivated property offenses are sent to prison.

Excluded: Specific consideration of specialized drug treatment while under supervision

NIDA Estimate: \$61,208,000

Lost Tax Revenues

\$1,472,000

The estimated cost of tax revenue lost to the state due to prisoners incarcerated and not earning incomes is based on the numbers of drug-related incarcerations in prison or jail, NM per capita income and average NM state tax rates.

Excluded: Time served in prison or jail for cases not processed through district courts

NIDA Estimate: \$3,448,000

Social Welfare Costs

\$142,000

Estimated social welfare costs includes the foster care costs attributable to the 10% of mothers and 2% of fathers admitted to prison for drug offenses and drug-related property offenses whose children were placed under the supervision of the state.

NIDA Estimate: Not estimated

Total - Known New Mexico Costs to the State

\$43,600,000

Total NM NIDA Estimate (Federal, State and Local): \$110,104,000